CURRENT History

JULY, 1967 VOL. 53, NO. 311

In the second of three studies of crime in America today, six articles explore problems of law enforcement—federal, state and local. In a historical summary, our introductory author discusses some "problems of law enforcement peculiar to American conditions," including frontier and puritan mores. He concludes that, despite some disregard for law, "in most parts of the country throughout American history, persons and property were essentially as safe as they were in Europe. . . ."

Cultural Roots of American Law Enforcement

By William G. Carleton

Professor Emeritus of History and Political Science, University of Florida

Unlike the civil law and equity, the enforcement of the criminal law in the United States is the obligation of government. Government takes the initiative, makes the arrests, procures the indictments, and conducts and pays for the prosecutions. Among leading criminal offenses are fraud, forgery, embezzlement, conspiracy, breach of the peace, arson, assault and battery, rape, robbery, burglary and homicide. How adequately have Americans enforced the criminal laws throughout most of their history? What attitudes, rooted in their culture, did Americans develop with respect to enforcement? What problems peculiarly American confronted them?

In the United States, criminal offenses have been left largely to the states. The state legislature made and defined the criminal laws; the county and state courts interpreted and enforced them. The states created counties for the purpose of administering and enforcing the state laws locally—the county judge, prosecuting attorney and sheriff served as the leading local law-enforcement officials.

It was the sheriff, an officer inherited from ancient English practice, who conducted the investigations and made the arrests. The actual indictments were made by the grand jury, another venerable English institution. In colonial days, and in some states even after the Revolution, the sheriff was appointed by the governor, but later in all the states he was elected by the county voters. The sheriff was aided by deputies and, in emergencies, might call other able-bodied males to serve as a posse to help him keep the peace and apprehend dangerous law breakers.

A successful sheriff was keenly sensitive to popular opinion and influential pressures in his county; he knew what laws to enforce and what laws not to enforce, when to be aggressive and when to maintain "a salutary neglect." Some sheriffs were known to have

made a lucrative practice of selling immunity. Throughout most of the nineteenth century, the sheriff was paid not a salary but fees based on the number of prisoners he had in his jail. The yearly fees of a sheriff of a populous county often amounted to more than the salary of the governor or of the President of the United States. The sheriff's office was much coveted, for it was not only profitable, but the easiest office from which to build a county political machine.

By the mid-nineteenth century, when some genuine metropolitan centers had developed in the United States, law enforcement in these urban areas had become too big a problem for the sheriff's office. The old "watch-and-ward" force, made up of private male citizens required to take turns at patrolling their city, was now hopelessly inadequate. About this time, in 1829, Sir Robert Peel organized a body of trained and paid policemen, called "bobbies" or "peelers," for the city of London. Other English cities followed suit and this innovation attracted attention in America. In 1838, Boston created a small paid police force. In 1844, the city of New York established a paid police force of 800 men—an organization which became the model for other American cities. By 1870, most large American cities had a police department and a paid police force. Legally, the authority of the sheriff usually continued to extend into the city, with the sheriff's office and the city police department sometimes working at cross purposes. These early police forces were riddled with partisan politics; police jobs were handed out as political plums and became an element in the building of city machines. Often a city machine was able to reach out into the county and control the sheriff's office, too.

Although it has grown considerably during the twentieth century, throughout most of American history the federal government has had relatively little criminal jurisdiction. From the beginning, federal offenses included treason against the United States, dishonesty in obtaining naturalized United States citizenship, violations of the fugitive slave law, mail robberies and using the mails to defraud, counterfeiting, irregularities in the payment of customs duties and the federal internal revenue taxes, and frauds in the disposal of the public lands. The federal courts have always had exclusive jurisdiction over cases in admiralty, and hence all offenses committed on vessels sailing the Great Lakes and the public navigable rivers and on American ships on the seas have been under their purview. To handle these matters Congress created federal district courts within the states and their number increased as the size and population of the country grew. A federal judge presided over each district court and attached to his court was a United States marshal to make federal arrests and a United States district attorney to conduct the prosecutions. Convictions might be appealed to federal circuit courts and in some cases to the United States Supreme Court.

A COMPARATIVE VIEW

Before discussing the traditional problems of law enforcement in the United States, it should be remembered that the Europeans also had their problems. The United States fortunately escaped many of these. Americans were spared the large pauper populations of Europe and the resulting widespread robberies, pilferings and pick-pocketings. Americans were spared, too, the terrorizing of the London and Paris mobs, which during the eighteenth and early ninteenth centuries would unpredictably swarm out of their foul neighborhoods to plunder, pillage, burn and sack indiscriminately. Americans in the eighteenth and nineteenth centuries suffered the sadism of public executions, but these never became the cruel, massively-attended spectacles they were in England and Europe. The English penal code, reflecting the upper class fear of the lower classes, long remained harsh. (By the early nineteenth century, English juries sometimes refused to convict at all rather than mete out the antiquated and barbarous punishments demanded by that code.) In America, however, where there were few paupers and little destitution to the point of starvation, the penal codes were milder. As early as 1641, when the

English code listed 100 or more capital offenses, the Massachusetts Body of Liberties cut the number of capital offenses to 12.[1] This "leniency" spread to the other colonies, and down through the nineteenth century the Americans, in the humaneness of their penal codes and in their willingness to experiment with prison reforms, were generally in advance of the English.

AMERICA'S FRONTIER MORES

At one time or another all of the United States passed through a frontier stage. The Atlantic seaboard was the first American frontier. Life on each frontier was primitive, but life on the Atlantic frontier, the first to penetrate the mysterious perils of a new world's forest and wilderness, was primeval. Thereafter, the frontier kept moving westward, wave upon wave. It was peopled by hunters, trappers, Indian traders and squatters on the land. Most of the settlers were poor and their struggle for survival was rigorous. They were uprooted from their customary associations and the restraints of long-established communities; they were dispersed over wide wilderness areas. Men greatly outnumbered women; churches, schools, and the official agencies of law enforcement did not at first exist and were slow to be established, and even when counties were formed, they were so large and communications so poor that sheriffs had difficulty encompassing them.

Even after settlements grew beyond their early frontier conditions and became better established, much of the tendency toward rough-and-ready violence and general disrespect for legal and social restraints persisted as cultural residues. Another formative condition, as important in fixing basic American habits and values as the literal frontier itself, was the prevalence in even many long-settled areas of large tracts of wilderness, and of widely scattered and isolated hamlets and farmsteads—areas difficult of access to law-enforcement officials and less amenable to those social restraints which characterized the clusters of old communal agricultural villages in England and Europe. Charles Dickens, traveling in New England in 1842 over 200 years after that section's first settlements, commented on this. He was impressed by the isolation of New England's neat and trim towns, often separated from one another by stretches of forest, unfinished clearings and cut-over lands.[2] And so, as vitally important in the formation of American character as the literal frontier itself, were the long-settled areas which remained in an arrested and frozen semi-frontier stage of development until near the end of the nineteenth century. Among these areas, to mention only a few, were many of the pine barrens and many of the hill and mountain sections of the South.[3]

In frontier and semi-frontier communities, where official enforcement of law was difficult, private individuals of influence often took the enforcement of law into their own hands, formed vigilante committees, scoured the country for notorious law breakers (particularly those who carried off slaves, horses or cattle), tried them when apprehended and, if "found guilty," lynched them. These summary activities usually had the approval of "men of substance." Charles Lyell, the foremost English geologist of the nineteenth century, traveling in Georgia in 1846, was told by a prominent citizen: "If you were a settler along the Georgia-Florida border and had no other law to defend you, you would be glad of the protection of Judge Lynch."[4] A noted Polish journalist, Henry Sienkiewicz, living for a time among the squatters of the California back country in the 1870's, found that the most lawless of the squatters respected only one thing—"Uncle Lynch."[5]

This proclivity for vigilante activity, however, often had deplorable results. The vigilantes sometimes "got the wrong man"; they sometimes satisfied grudges against individuals

[1] David Hawke, *The Colonial Experience* (Indianapolis: Bobbs-Merrill, 1966), p. 353.
[2] Charles Dickens, *American Notes* (Gadshill ed.; New York: Scribner, 1898), pp. 74–75.
[3] W. J. Cash, *The Mind of The South* (New York: Vintage, 1941), pp. 22–27, 98–99, 105.
[4] Charles Lyell, *A Second Visit to the United States of North America* (London: John Murray, 1849), II, 29.
[5] Henry Sienkiewicz, *Portrait of America* (New York: Columbia University Press, 1959), p. 134.

they disliked; they sometimes themselves turned into a band of lawbreakers, occasionally even "in cahoots" with the sheriff; and a habit developed among Americans of using vigilante activities and other irregular coercive pressures to force nonconforming individuals "to toe the mark," not only in their conduct but also in their thoughts and expressions.

Another method of law enforcement used by frontier communities, in the absence of regular town or county government, was the assembling of serious-minded members of a settlement to "elect" a mayor or a sheriff. Usually these improvised officials were accepted by the community and operated as judiciously as regular officials. Bayard Taylor, famous writer and journalist, visiting the California gold-rush mining camps in 1849 (the most frenetic frontier settlements in American history), described how the educated and responsible miners of a camp often selected an alcalde (mayor) whose word was law. "A man might dig a hole in the dry ravines, and so long as he left a shovel, pick, or crowbar to show that he still intended working it, he was safe from trespass. His tools might remain there for months without being disturbed."[6]

LAW ENFORCEMENT: TOO LITTLE

Americans in all parts of the country, whether removed from frontier conditions or not, tended to leave unenforced or poorly enforced many of the laws. For one thing, Americans disliked paying taxes of any kind. Further, they regarded apprehensions for minor infractions—such as poaching, trespassing, hunting and fishing on private lands, negligence in driving their buggies and wagons—as infringements of their "liberties." They were inclined to overlook brawls, shooting scrapes, assaults, and even homicides involving barroom quarrels, notorious and long-standing family feuds, the virtue of womanhood, the sanctity of the home, or the "honor" of preachers, editors and politicians avenging themselves for scurrilous verbal attacks. This applied, too, to the neighborhood street battles between native Americans and the members of any new immigrant group. In the South, before the abolition of slavery, cruelty to slaves and even their homicide at the hands of master or overseer usually went unpunished. All over the United States during the nineteenth century, offenses by whites against Indians and by whites against free Negroes were treated lightly, as were offenses by Indians against fellow Indians and by free Negroes against fellow free Negroes.[7] But this leniency stopped short when the offense was committed by Indian, Negro or immigrant against a native white American.

In addition, during the Civil War, 1861–1865, there was much subversive violence and terrorism among civilians in the North, especially in the border states, involving the pro-Southern "copperhead" organizations; and in the South involving the anti-Confederate, pro-peace "dark lantern" groups. These reflected the highly abnormal conditions of wartime.[8]

Foreigners traveling in the United States were astonished at the wide tolerance Americans had for financial frauds and swindles. The scramble to appropriate the country's resources, develop them, and get rich quick was taken for granted. Americans found numerous ways to defraud the federal government of vast amounts of land under the preemption and the homestead laws.[9] There were many real estate frauds among private individuals, too. Land sharks frequently fleeced newcomers to a community. Sales of

[6] Bayard Taylor, *Eldorado* (New York: Knopf, 1949), p. 78.

[7] For general descriptions of some of those aspects of law enforcement in which mid-nineteenth century Americans were lax, see Allan Nevins, *Ordeal of the Union* (New York: Scribner, 1947), I, 62–71, 442–449, 518–524; II, 280–286.

[8] Wood Gray, *The Hidden Civil War* (New York: Viking, 1942); Dean Sprague, *Freedom Under Lincoln* (Boston: Houghton Mifflin, 1965); Carleton Beals, *War Within a War: The Confederacy Against Itself* (Philadelphia: Chilton Books, 1965).

[9] For the great variety of frauds against the federal government under the preemption and the homestead laws, see Everett Dick, *The Sod-House Frontier* (Lincoln, Nebraska: Johnsen Publishing Company, 1954); also Fred A. Shannon, *The Farmer's Last Frontier* (New York: Farrar and Rinehart, 1945).

real estate in "developments" and "towns" which existed only on paper were commonplace. There were "gold-brick" stock companies galore, bogus internal-improvements companies and many wildcat banks which became insolvent and impoverished their depositors. Dickens, amazed at the frenetic promotional and speculative climate of the United States, devoted a portion of his *Martin Chuzzlewit* (1844) to a caricature of American land swindles. Anthony Trollope, traveling in the United States in the mid-nineteenth century, found that Americans regarded even "shady" promotions, stock companies and banks as playing a "legitimate" part in creating credit, "tapping" savings, and opening up their country; that Americans were as enamoured of the sheer game of making money—in which some cheating was to be expected—as of the money itself. Over and again he heard Americans say, in effect: "In a new country, sir, it behooves a man to be smart."[10]

LAW ENFORCEMENT: TOO MUCH

While Americans were lax in enforcing many of the offenses regarded as serious in other countries, they created a whole new set of criminal offenses which in other countries were not considered offenses at all. Americans had puritan mores, even when they did not always practice them, and certain kinds of personal behavior, which in other countries were left to individual judgment, were in the United States often proscribed or regulated by laws. There were legal restrictions on selling intoxicating beverages, on gambling, on prostitution and other sexual behavior, and not infrequently even on dancing, card playing, theaters and other amusements. There were "blue laws" which banned all recreation and amusements on Sunday, and sometimes all travel and the use of any vehicle on that day.[11] Such regulations posed difficult problems of law enforcement.

American puritanism came out of the whole American environment, not just out of the Protestant and Calvinist ethic. The Puritans of New England were more puritan than the Puritans of England; the Dutch Reformed of New York were more puritan than the Dutch Reformed in Holland; the Episcopalians of Virginia were different from those of England, and in Virginia there was no reading of the Declaration of Sports from Anglican pulpits, as in England; and no dancing around Maypoles on Sunday. Even Americans who belonged to no church (and these were always in the majority, even in colonial New England) imbibed puritan mores. Among other things, American puritanism emerged from the effort of bridling the unruly elements in frontier society; the back-breaking toil required to survive in the rugged conditions of the New World; the palpable fact that those who were sober, hard-working, thrifty and circumspect survived better and "got ahead." By the time survival was assured, the inhibiting habits of puritanism had become ingrained. The keen competition for weath and status reinforced them, resulting in the gospel of work and guilt feelings about leisure, about many of the ordinary pleasures, and especially about the refined and urbane amusements of upper-class Europeans. In the nineteenth century, foreign travelers in America, both unfriendly ones like Mrs. Frances Trollope and friendly ones like Alexis de Tocqueville, invariably noted the absence among Americans of the relaxed European "joy of living"; and Americans traveling in England, among them Nathaniel Hawthorne, observed that Englishmen, from peer to peasant, were a more frolicsome people than were the Americans.[12]

At times, great popular waves of moral reform would sweep through America, demanding that even more laws be passed to curb man's evil ways. In the 1850's, the temperance movement reached a new high and laws

[10] Anthony Trollope, *North America* (New York: Harper, 1862), pp. 119, 121-22, 142, 366, 590.

[11] For a description of "blue Sunday" in American cities in the 1830's, see Alexis de Tocqueville, *Democracy in America* (New York: Knopf, 1946), II, 341.

[12] For summary observations of puritanism in the American character, see Frances Trollope, *Domestic Manners of the Americans* (New York: Knopf, 1949), p. 305; de Tocqueville, *op. cit.*, pp. 221–22; Nathaniel Hawthorne, *Our Old Home, A Series of English Sketches* (Boston: Houghton Mifflin, 1883), p. 267.

prohibiting the sale of intoxicating beverages were adopted by most of the northern agrarian states from Maine to Iowa. For a time even Massachusetts and New York, which were becoming industrialized, fell into line. But this sweeping banning of a practice almost universal from time immemorial was difficult to enforce even in America. "Bootlegging" sprang up, "blind pigs" became rampant, and in the cities the law was often made a mockery. By the mid-1860's, most states had repealed their prohibition laws. Again, during the first two decades of the twentieth century, another popular temperance drive made headway, and state after state enacted prohibition laws. This culminated in 1919 in the adoption of the Eighteenth Amendment to the federal Constitution, making prohibition nationwide. Despite heroic efforts to make "the noble experiment" work, the wholesale violations of the law resulted in the repeal of national prohibition in 1933. It was again demonstrated that there were limits beyond which American puritan mores could not be enforced by law.

JURY ORATORY & "YELLOW JOURNALISM"

An important factor in law enforcement was the enormous influence of impassioned oratory on Americans. Unlike England, in the United States the trial judge put few restraints on opposing lawyers and criminal trials in America often became forensic duels between attorneys for the state and for the accused. When jury-trial lawyers noted for their eloquence engaged in a trial, people flocked to the court house with the same kind of excitement that led them to hear popular political orators on the stump or evangelists at camp meetings.[13] Spreadeagle, stemwinding oratory served a much-needed emotional release; foreign commentators observed that oratory was to Americans what punch-and-judy, pantomine, stage plays, concerts and operas were to the Europeans. Some famous court orators, specializing in the defense, gained reputations for never losing a case, no matter how much evidence the state arrayed against their clients. One of the reasons that mob lynchings persisted so long in the United States was the community belief that one accused of heinous crime, if he employed a persuasive lawyer, could not be convicted in court.

Another hurdle to effective law enforcement was the practice of trying criminal cases in the newspapers. American newspapers differed from the English, which had circulations limited to the educated upper and middle classes and were usually sedate and "serious" in content. But, in America—because of improvements in the power-driven press and the fact that most Americans attended public schools at least long enough to read and write—the penny newspaper with a popular mass appeal soon found a place. American newspapers personalized the news, featuring "human-interest" stories and sensational events like lurid crimes. Those accused of criminal offenses were often prejudged in the newspapers before trial; often community sentiment was whipped up against them; at other times they were sentimentalized and popular sympathy was aroused for them. At the end of the nineteenth century, when the Pulitzer and Hearst brands of "yellow journalism" came into vogue, crime news was played up even more.

CLASS WARFARE

The rapid industrialization of the country following the Civil War brought new problems of law enforcement to America. One of these was a problem shared with Europe. From about 1870 to about 1920, a bitter class war took place in the United States between the owners of the growing industrial giants and the emerging legions of industrial workers. Labor was fighting for the right to organize effectively and to establish better conditions for workingmen, while management was fighting to maintain the status quo. Labor unions were weak and immature. And the American labor move-

[13] For the typical adoration accorded a dazzling stump speaker and jury orator, see George L. Prentiss, ed., *A Memoir of S. S. Prentiss,* Vols. I and II (New York: Scribner, 1855).

ment at that time, while divided within itself, was more influenced by European Marxist, syndicalist and anarchist doctrines and more given to violence and revolutionary methods than at any time in its history. These were the decades which witnessed the terrorizing activities of the "Molly Maguire" miners in the early 1870's; the "anarchist" riot and bomb throwing at the Chicago Haymarket in 1886; the "massacre" at the Homestead steel mills in 1892; the riots and arsons of the Pullman strike in 1894; the virtual civil war (and a bloody one) waged in Colorado between the mine operators and the Western Federation of Miners from 1902 to 1904 and the scores of dynamitings from 1906 to 1911, including the blowing up of the *Los Angeles Times* building, charged to the Structural Iron Workers' Union; plus the many acts of violence and terror said to have been perpetrated by the Industrial Workers of the World.[14]

The owners generally had the law, as it then existed, on their side; they generally had the support of public opinion; the state militia was usually at their beck and call; and the county sheriff's office, in counties where the big mills and mines were located, frequently operated as a virtual constabulary for management. In addition, employers hired private detective agencies, like those of Allan Pinkerton and William J. Burns, to spy on labor leaders and break strikes. The Pinkerton agency supplied armies of strike breakers which often performed as military constabularies.

On the other hand, the labor leaders were fighting the battle to win unaccustomed legal rights for unions and wageworkers. They appealed to the American tradition of sympathy for the underdog, and they had the support of many idealists and of some able lawyers like Clarence Darrow. After the early 1920's, this fierce class war eased because of the rising living standards, the growing maturity and discipline of unions, the adoption of government wage and hour laws and social security measures, and the institutionalizing of federal machinery to regulate labor-management relations.

[14] For an overall view of the period of class warfare, see Samuel Gompers, *Seventy Years of Life and Labor,* Vols. I and II (New York: Dutton, 1925); Harry Barnard, *Eagle Forgotten: The Life of John Peter Altgeld* (Indianapolis: Bobbs-Merrill, 1938); Ray Ginger, *The Bending Cross: A Biography of Eugene V. Debs* (New Brunswick: Rutgers University Press, 1949); Louis Adamic, *Dynamite: The Story of Class Violence in America* (London: Jonathan Cape Publishers, 1931); Irving Stone, *Clarence Darrow for the Defense* (Garden City: Doubleday, 1941); Lincoln Steffens, *Autobiography* (New York: Harcourt, Brace and Company, 1931).

THE "SHAME" OF THE CITIES

In the five decades following the Civil War, British, Irish, German and Scandinavian immigrants continued to pour into the country and, in addition, there was the "new immigration" of Italians, Greeks, Hungarians, Slavs and East European Jewish people. Most newcomers settled in the large cities. The presence of this polyglot population increased problems of law enforcement. The immigrants worked for sweatshop wages, lived in slums, had language difficulties, and held to the customs of their native lands. They found strange the many legal tabus and restrictions on drinking, gambling, prostitution and sundry amusements. "Blue Sunday," in particular, bewildered them. They asked: "When, except on Sunday, do working-class families have the leisure for recreations and amusements?" They were joined by many native Americans who also resented the restrictions.

There had been considerable relaxation of the blue laws by the late nineteenth century, but many still remained in force. A majority of city dwellers would probably have voted to repeal these laws; but most of them were state laws and rural elements in the state legislatures prevented their repeal.

(*Continued on page 49*)

William G. Carleton is the author of *The Revolution in American Foreign Policy* (New York: Random House, 1963), and of numerous articles for domestic and foreign journals. He is currently working on an American history emphasizing the historical origins of American cultural values.

Reviewing the role of local law enforcement agencies in the United States today, this expert finds that, "Over a period of many years there has been a general improvement in the quality of local and state law enforcement agencies. Progress in the area of police training has been unusually rapid. Physical equipment under the control of American law enforcement agencies exceeds that of the combined police forces of the rest of the world. Yet, in 1965, of all major offenses reported in cities, only 24.6 per cent were cleared by arrest."

Local and State Law Enforcement Today

By Virgil W. Peterson
Executive Director, Chicago Crime Commission

Law enforcement in the United States clearly reflects our deeply imbedded tradition of local autonomy in government. With few exceptions, each local government, regardless of how small or weak it may be, insists upon its own police department and thus the "most striking characteristics of American police patterns" are "decentralization and fragmentation."[1]

There are at least five strata of police services in America: 1) police agencies of the federal government; 2) state police forces and criminal investigation agencies; 3) sheriffs and their deputies in over 3,000 counties, plus a few county police forces which either duplicate the sheriff's jurisdiction or displace it; 4) police departments of a thousand cities and over 20,000 townships or New England towns; 5) the police of 15,000 villages, boroughs and incorporated towns.[2]

This means that at the present time there are over 40,000 separate law enforcement agencies in the United States with a total personnel of about 420,000. These forces vary in size from 1 or 2 men to over 28,000. The police departments of only 55 cities—those of over 250,000 population—employ over one-fourth of the total police personnel in the nation. Not only do the police forces vary greatly in size, there is also a disparity in the quality of the services they perform. Many are ineffective, undermanned and poorly equipped, while others rank with the finest in the world.

In thousands of counties in the United States the sheriff, an elected official, is the principal law enforcement official. The office of sheriff originated in England and became a part of our national institutions during colonial times. Before the development of state police departments in this country the sheriff played an important role in law enforcement, particularly in the rural communities. However, for some time now the sheriff system has been declining in importance.[3] And, in some places, the sheriff has been shorn of law enforcement duties and is confined to serving legal papers for the courts or administering the county jail.

In a number of communities there are

[1] Bruce Smith, *Police Systems in the United States* (New York: Harper & Brothers, 1949), p. 316.

[2] *Ibid.*, pp. 23, 24.

[3] *Ibid.*, p. 89, *e.g.*, "In the vast majority of American counties the sheriff system has already collapsed . . . the office has been declining in effectiveness and in popular esteem for centuries. . . . In a day of highly developed police techniques, elected police administrators are an anachronism. This, combined with short terms and rotation in office, effectively closes all promising avenues for eventual improvement."

county police forces of varying degrees of effectiveness. Although some are small and inefficient, others play a major law enforcement role in their counties. In New York State, the Nassau County police department on Long Island, established in 1925, is completely independent of the sheriff's office and is the second largest police department in the state. At the present time the Nassau County police department provides law enforcement for 69 per cent of the area and 79 per cent of the population in the county. Under a contractual arrangement, it also polices a number of incorporated towns including such cities as New Hyde Park, Mineola and Massapequa. Police services for cities within the 10,000 to 25,000 population category are also obtained on a contractual basis by Babylon, New York, also on Long Island, from the Suffolk County police force; by Bowie, Maryland, from the Prince Georges County police department; and by five California cities from various county police forces.[4]

It is only in the state of California, however, that the practice of obtaining complete police service on a contractual basis is widespread. The sheriff of Los Angeles County provides complete police service to 29 of the 77 municipalities lying within the county. In California there are about 500 intergovernmental agreements whereby one government furnishes some or all of its police services to another jurisdiction.

Special police services are furnished municipalities by outside agencies in a number of places. In Suffolk County, New York, and Dade County, Florida, county investigators can be called into municipalities to assist in the solution of crime. A Kansas City metropolitan squad has been organized to handle major cases, an arrangement that involves cooperation between 29 different county, city and state agencies. A major case squad also operates in the Greater St. Louis area. In Atlanta, a fugitive apprehension squad services 38 departments and 6 counties.

The concept of a metropolitan area police service has been vigorously opposed in the United States.[5] In only one place in the nation, Nashville-Davidson County, Tennessee, has there been a complete political merger of city and suburbs.

STATE POLICE AT WORK

In addition to the thousands of law enforcement agencies of village, city and county, there are state police or highway patrols in 49 of the 50 states. State police forces, responsible to the governor or attorney general, are of relatively recent origin. Although quasi-state police agencies were formed in Texas in 1835, Massachusetts in 1865, Arizona in 1901 and Connecticut in 1903, the formation of the Pennsylvania state police in 1905 marked the beginning of the modern state police and highway patrol system. Because of the commonplace fear of a police state and the early vigorous opposition of organized labor, most state police and highway patrol forces operate under statutes that limit their powers. In some states the governor's approval must be obtained before the state police can be used at the scene of a labor strike. In some states, before the state police can be used to assist in preserving the peace within a municipality there must be a written request on the part of the local chief of police or the executive officer of the city.

Although state police and highway patrol forces exercise statewide jurisdiction, they differ considerably as to powers and territorial jurisdiction. In general, state police forces exercise broad law enforcement powers whereas state highway patrols are restricted to the enforcement of the traffic laws and to carrying out highway accident prevention programs. There are state police agencies in 25 states and state highway patrols in 24.[6]

---

[4] See *The Municipal Year Book 1966* (Chicago: The International City Managers Association, 1966), pp. 455–465.

[5] See Virgil W. Peterson, "Issues and Problems in Metropolitan Area Police Services," *The Journal of Criminal Law, Criminology and Police Science,* July–August, 1957, pp. 127–148.

[6] See Frank D. Day, "State Police and Highway Patrols," *The Book of the States 1964–1965* (Chicago: Council of State Governments), pp. 461–465; also see Frank D. Day, *The Book of the States 1966–1967,* pp. 412–416; and Edward J. Hickey, "Trends in Rural Police Protection," *The Annals of the American Academy of Political and Social Science,* January, 1954, pp. 24, 25.

At the beginning of 1966, the total personnel of the 49 state police and highway patrol forces was 39,292. These forces ranged in size from 147 in the Alaska state police to 2,909 in the New York state police, and from 71 in the Nevada state highway patrol to 4,277 in the California state highway patrol.

In many states there have been established special purpose police agencies that are independent of the state police force. Among such specialized law enforcement agencies are those formed to control liquor and narcotics. In some states there are departments of investigation and bureaus of identification not connected with the state police.

Over $2.5 billion a year is required to maintain America's 40,000 police agencies. In cities of more than 10,000 inhabitants the annual per capita cost of police expenditures is $14.77, with salaries and wages accounting for 86 per cent of the total. In cities of over one million population the per capita cost is $27.31. In small cities the median annual salary for patrolmen is $4,600 and in large cities $5,300.

RECRUITMENT PROBLEMS

Police departments generally are undermanned. Notwithstanding a rapidly increasing incidence of crime and a growing frequency in the demands for police service, the present national average rate of 1.9 police employees per 1,000 inhabitants has remained relatively constant since 1958. Although crime in the suburbs has been increasing even more rapidly than in the cities, the average rate of police employees per 1,000 population in the suburbs is only 1.4 and in the rural areas 1.0.

On a national average, city police departments are 10 per cent below their authorized personnel strength. In part, this situation stems from an absence of acceptable applicants. For example, the Los Angeles department which maintains high standards accepted less than 3 per cent of its applicants in 1965. And while the rates of acceptance for police department applicants are falling there is evidence that retirement rates will probably rise.

The quality of police personnel throughout the United States varies greatly. Although a high school diploma is a prerequisite for appointment in over 70 per cent of the departments, less than two dozen of the nation's 40,000 police agencies require college credits. All departments require the applicant to possess "good moral character." However, many departments do not conduct a thorough character and background investigation but merely interview the candidate and check police records to determine whether he has been arrested. Only about one-fourth of the local departments attempt to screen candidates for emotional fitness. The frequent requirement that applicants for police service be residents of the city for a certain period of time also hinders many departments in attempting to recruit desirable personnel. Civil service mechanisms and processes are also too often geared to standards of mediocrity rather than excellence.

The need for improved quality of police personnel in this country is universal. The President's Commission on Law Enforcement and Administration of Justice has recommended that ultimately all police departments should require a college degree for personnel having law enforcement powers and that the appointing authority should place primary emphasis on education, background, character and personality.[7]

Recruitment policies are further complicated by the urgent need for greater representation in many cities of minority groups in the police services. A 1966 census report indicates that 78 per cent of all white males between the ages of 20 and 24 have had four years of high school, compared with only 53 per cent of nonwhite males in the same age bracket. In New York City, under the Department of Labor Manpower Training Program, there was a project initiated on May 1, 1966, designed to give special training to Negro and Puerto Rican men to enable them to pass civil service examinations for patrol-

[7] See *The Challenge of Crime in a Free Society*, A Report by the President's Commission on Law Enforcement and Administration of Justice (Washington, D. C.; United States Government Printing Office, February, 1967), pp. 107–111.

men. Of the 1,090 men enrolled in the program, 864 were high school dropouts who were required to have the equivalent of fifth grade reading skill. The program was denounced by some as a blow to police professionalism and to the efforts to raise the general educational level of policemen.

The President's Commission on Law Enforcement suggested that candidates for police service be permitted to enter the department at three levels of qualification, competence, responsibility and pay: 1) police agent, 2) police officer, and 3) community service officer. The community service officer, in effect an apprentice policeman, would be expected to qualify as rapidly as possible for the higher positions of officer or agent. It was suggested that members of minority groups who cannot meet the desired educational requirements be employed in this way.

Police department recruitment has also been hampered by rigid age requirements, usually ranging from 21 to 35 years. Some departments, including those of Chicago, Minneapolis and Dallas, have lowered the minimum age requirement without any ill effects. A number of state and local departments have also inaugurated cadet programs to offset the loss of promising young men of 17 or 18 who are vitally interested in police careers. (Often, by the time they have reached the required minimum department entrance age, these young men have completed college and have developed other interests or are established in positions in industry.) Under the cadet program, which has been successful in England since 1935, carefully screened young men of 17 or 18 are employed by the police agency to perform specialized administrative or clerical tasks. They are thus indoctrinated in police work and are given training that will enable them to qualify for the position of patrolman upon reaching the age requirement. In Chicago, the cadet is required to enroll in academic programs in a local college or university. In addition to receiving an opportunity to obtain a college degree, this special instruction enables him to further his career in police work.

In recent years training programs of many local and state police departments have been strengthened and also expanded. In-service training is provided by all departments of cities exceeding 500,000 population and by 84 per cent of the departments in cities with over 10,000 inhabitants. Specialized training in handling crowds, demonstrations and riots is given by 85 per cent of the departments of cities having a population of over 10,000. Many departments also provide special training programs for officers and those engaged in a supervisory capacity. In 1966, the New England State Police Administrators Conference established a school for command and supervisory officers. The faculty consists of specialists from the police forces of six states, federal agencies, industry and Northeastern University. For over three decades the FBI National Academy has conducted comprehensive 12-week courses for duly constituted officers of municipal, county and state law enforcement agencies. It is intended that graduates of the FBI academy return to their own departments and play a major role there in local police training programs.

ORGANIZATION & ADMINISTRATION

Of the various factors that contribute to the effectiveness of a police agency, the most important are sound organization and administration. The President's Commission on Law Enforcement made a nationwide study of organization, management and field operations of city police departments. It discussed these problems with four separate advisory panels and over 250 representatives of police forces and professional organizations; it reviewed police literature, textbooks and consultant reports covering the organization and management of 75 city police departments and an independent study was also made. The Commission reported: "Each study and every expert agreed that, with some notable exceptions, city police forces are not well organized and managed." It concluded that the "adoption in practice of the recognized principles of good organization and management is a matter of great urgency."[8]

[8] *Ibid.*, p. 113.

Effective patrol coverage is essential if police agencies are to perform their basic functions of detecting crime, apprehending offenders and preventing lawlessness. With the motorization of police forces there has naturally been a great decline in the number of foot patrolmen. However, there are patrolmen walking beats in 33 of 37 cities of 300,000 to 1,000,000 population. The number varies from two in Birmingham, Alabama, and Phoenix, Arizona, to 434 in Baltimore, Maryland. The use of 1-man patrol cars has been highly controversial in police circles. However, from 1946 to 1964, the percentage of large cities utilizing 2-man patrol cars exclusively dropped from 62 per cent to 20 per cent while cities using 1-man cars only jumped from 18 to 41 per cent. In most city police departments at least half of the sworn personnel perform their duties in uniform on the streets. Numerous experiments have established that the presence of a large number of visible policemen on the streets results in a decline of crime.

Specially trained police dogs are utilized to good advantage by many departments. The dogs and their trained officer-handlers have been particularly effective for antiburglary patrol duty in industrial and commercial areas and for building searches. In 1957, only one police department had a canine corps. At the present time 200 cities have an aggregate of 500 man-dog teams.

Many state and local law enforcement agencies use helicopters for traffic control and general police purposes. Coordinated air-ground police patrols have proven effective in alleviating traffic congestion, detecting violations and arresting offenders. The use of helicopters by police agencies has been increasing but in some legislative halls pressures have been exerted to ban aircraft as an enforcement device.

EFFORTS AGAINST ORGANIZED CRIME

Organized crime has long presented a major problem in America. Police agencies generally were slow to admit the existence of the problem or to take necessary steps to combat it. Most police efforts in the field of organized crime were unplanned, spasmodic and ineffective. Badly needed were the establishment of police intelligence units, adequately staffed, that would constantly conduct investigations, surveillances and collect information regarding the principal racketeers and their associates. Although there was resistance to the intelligence unit concept by many departments, this attitude changed following public hearings by United States Senate committees on organized crime during the 1950's. Several major departments, following the leadership of Los Angeles, established intelligence units. On March 29, 1956, representatives of 26 law enforcement agencies met in San Francisco and formed an association of police intelligence units. Members of the association, named the Law Enforcement Intelligence Unit (L.E.I.U.), established procedures for the exchange of intelligence information. By 1967, representatives of 150 intelligence units had become members of L.E.I.U.

Rapid response to emergency calls is an important factor in the solution, as well as prevention, of crime. Great strides have been made in police communications systems throughout the country although many are still inadequate to cope with present day conditions. In 1961, a model central communications systems was installed by the Chicago police department at a cost of $2 million. This system utilizes 27 radio frequencies, controls over 1,400 police vehicles covering 224 square miles, and requires over 300 persons to operate it. Dispatchers are able to direct police cars to the scene of trouble almost instantaneously upon the receipt of calls.

Early in 1967 there was inaugurated in Washington, D. C., a new FBI National Crime Information Center. Initially 15 "pilot" city and state law enforcement agencies in various parts of the nation were linked electronically with the center. By using a typewriter or phone-like device the enforcement agencies within the network are able to feed inquiries into a computer and receive instant information from the national center regarding wanted persons, stolen and lost vehicles, weapons and property. The na-

tional center, made possible by the developing use of computers, complements statewide, area-wide and metropolitan systems of information exchange.

In recent years there has been steadily increased use of electronic data-processing in many city and state police record systems. In 1965, the New York City police department conducted a successful experiment with a Univac computer programmed to pick out traffic violators and stolen cars. A patrolman at one edge of a bridge radioed license plate numbers of passing automobiles to a computer that had been fed data regarding the license numbers of stolen cars and wanted violators. The violators were thus instantly identified and arrested. Progress has been made by the New York Identification and Intelligence System in developing a similar system utilizing a closed-circuit television concealed in a tollbooth or in back of a stop sign or traffic light. Automation is becoming an increasingly effective ally of law enforcement in many parts of the nation.

ENFORCEMENT & CIVIL RIGHTS

For several years police agencies in America have been confronted with a soaring crime rate. During this same period the trend in judicial decisions has been to place more rigid restrictions on police activity. These restrictions have been most pronounced in the areas of arrest, search and seizure and in the interrogation of suspects.

In New York, through the joint efforts of law enforcement officials, a state law was enacted which permits a police officer to stop any person in a public place whom he suspects is committing, has committed or is about to commit any felony and to search him. This "stop and frisk" law was vigorously opposed by civil liberties groups but thus far has been upheld by New York courts.

Observation of police street activity in high-crime neighborhoods of large cities by the President's Commission on Law Enforcement established that 10 per cent of persons frisked were carrying guns and another 10 per cent were armed with knives. The Commission conceded that if the police are forbidden to stop suspects at the scene of a crime or in situations that strongly suggest criminality, investigative leads would be lost. It recommended that state legislatures enact statutory provisions which provide guidelines for the police regarding their authority to stop persons for brief questioning and specify the circumstances and limitations under which such action may be taken.

In 1966, the United States Supreme Court, in a monumental 5–4 decision (*Miranda v. Arizona*),[9] held that before any person in custody may be questioned by the police he must be effectively and unequivocally warned that, 1) he has a right to remain silent, 2) any statement he makes may be used against him in court, 3) he has a right to the presence of an attorney during the interrogation, and 4) if he cannot afford an attorney he will be provided one without cost. Unless there is strict adherence to the guidelines enumerated in the *Miranda* decision, any statement, either inculpatory or exculpatory, will be inadmissible in court. Many serious crimes are committed in which no witnesses are available and other physical evidence is absent. Such cases are capable of solution only through the process of interrogation. In general, the police have complained that the *Miranda* decision deprives them of a vital tool for use in attempting to cope with the crime problem.

A major problem facing law enforcement agencies in the United States stems from racial tensions which often erupt into violence and widespread acts of civil disobedience. During 1966, destructive riots broke out in Watts, a Negro section of Los Angeles, also in Chicago's west side Negro ghetto, Cleveland's Hough area, the East New York section of Brooklyn, the Hunter's Point area in San Francisco and in Benton Harbor and Muskegon, Michigan. In almost every section of the nation—Baltimore, Maryland; Wauwatosa, Wisconsin; Bogalusa, Louisiana; Dayton, Ohio; Omaha, Nebraska; Cicero, Illinois; Oakland, California, and Atlanta, Georgia—racial disorders overtaxed police

[9] 384 U.S. 436. For excerpts of this decision, see *Current History*, June, 1967, p. 359.

strength. In some places the police were overwhelmed and national guardsmen were dispatched to the scenes of disorder to restore peace.

In many large cities multiple civil rights marches required the presence of large numbers of officers to prevent violence. Because of the diversion of police to maintain order during civil rights marches other sections of the city were left without adequate protection and in some instances crime rates there soared.

The social ills that breed resentment and hostility on the part of many residents and often erupt into violence were not created by the police. Yet, the police stand before the citizens of the community as the symbols of authority and in many instances become the principal targets of hostility. At the same time, charges of police brutality are commonplace.

In September of 1966, Joseph Lyford, author of a 6-year study of New York City's West Side for the Fund for the Republic, testified before a United States Senate committee in Washington asserting, "It's not a question of police brutality. It's a matter of police being afraid to get involved." Although the Lyford report was assailed as unfair by the New York City police commissioner, interviews with police officers disclosed that some admittedly avoided arresting Negroes because of the possibility of charges of "police brutality" being brought against them.

That same month, Senator Abraham A. Ribicoff of Connecticut released the results of a study made of Negro attitudes in New York City's Harlem and in the Watts area of Los Angeles. It was disclosed that the residents of those areas were not so much concerned with alleged police brutality as with the need for "better" police protection and "more" police protection.

COMMUNITY RELATIONS PROGRAMS

Obviously needed are the development of police-community relations programs that will provide the citizens with an insight into the problems of the police and the police with a sympathetic understanding of the viewpoints of the citizens and the basis for their feelings of hostility and frustration. The President's Commission on Law Enforcement reported that relations between the police and minority groups present a problem as serious as any confronting law enforcement agencies today. It recommended the establishment of police-community relations machinery including a headquarters unit that would plan and supervise the individual department's program.

In cities where racial tensions exist there are frequent demands for the creation of a civilian review board to examine allegations of police misconduct. A few cities have established civilian review boards. They are resented by the police and their value in improving relations between the police and the community is questionable. The President's Commission on Law Enforcement concluded that it is unreasonable to single out the police as the only agency that should be subject to special scrutiny from the outside. The Commission, therefore, recommended that civilian review boards not be established in jurisdictions where they do not already exist.

Over a period of many years there has been a general improvement in the quality of local and state law enforcement agencies. Progress in the area of police training has been unusually rapid. Physical equipment under the control of American law enforcement agencies exceeds that of the combined police forces of the rest of the world. Yet, in 1965, of all major offenses reported in cities, only 24.6 per cent were cleared by arrest. These clearance rates ranged from a high of 90.5

(*Continued on page 49*)

Virgil W. Peterson, a member of the Illinois bar, has been with the Chicago Crime Commission since 1942. From 1930 to 1942, he was with the FBI. Mr. Peterson is the author of numerous articles on the various aspects of crime and of two books, *Barbarians in Our Midst: A History of Chicago Crime and Politics* (Boston: Little, Brown, 1952) and *Gambling: Should It Be Legalized?* (Oxford: Blackwell, 1951).

Pointing out that "law enforcement in the U. S. must be based on local initiative, generated by local energy, and controlled by local officials," this federal official notes that new and substantial federal aid for state and local law enforcement "holds the promise of a coordinated nationwide effort toward a safer, more crime-free America."

Federal Law Enforcement

By Fred M. Vinson, Jr.
Assistant United States Attorney General

It is a fundamental tenet of our federal system that the primary responsibility for law enforcement in the United States rests on state and local governments. Crime must be rooted out in local communities by local authorities. Consistent with this principle, federal criminal law is statutory law. It is law made by Congress, not by judges. Unlike the courts in many states and localities, the federal courts exercise no common law jurisdiction over criminal offenses. As long ago as 1812, this cardinal principle of the nature of federal criminal law was settled by the Supreme Court.

The absence of a federal common law of crimes points up the interstitial character of federal criminal law. Under our constitutional plan, the federal government is a government of limited powers. Despite the increasing activity of the government in many areas, federal legislation must always carry out one or another of the limited powers bestowed on Congress by the Constitution. Federal criminal statutes—there are now more than 900, contained in nearly 3,000 sections of the United States Code—are specific enactments that operate within existing legal relationships created and continued by the states. Federal laws fill the holes in state law, modifying, adding to or subtracting from state law to accomplish federal objectives. Rarely do federal criminal statutes occupy a law enforcement field completely, excluding the participation of state and local law enforcement.

In 1948, Professor Louis B. Schwartz of the University of Pennsylvania described the purposes of the criminal sanction in federal law.[1] He found that federal criminal jurisdiction is broadly employed in three distinct but overlapping ways:

1. *Federal "self-defensive" criminal jurisdiction.* In this category fall offenses such as treason, espionage, revenue fraud, postal offenses and bribery of federal officers. Federal statutes in this area punish conduct of major, if not exclusive, federal concern. As Professor Schwartz stated, this is the oldest and best established branch of federal criminal jurisdiction. The authority and prestige of the national government are directly involved, and it is essential that they be protected by appropriate use of the criminal sanction.

2. *Federal criminal jurisdiction auxiliary to state enforcement.* Federal statutes in this area punish conduct of essentially local concern, with which local authorities are unable or unwilling to cope. Several considerations justify the use of federal law to assist state law enforcement. Interstate commerce and

[1] Schwartz, "Federal Criminal Jurisdiction and Prosecutors' Discretion," *Law and Contemporary Problems,* Vol. 13 (1948), p. 64.

the postal system facilitate crimes such as mail fraud; artificial geographic and political boundaries frustrate state law enforcement activity against crimes such as auto theft; local incentive may be inadequate to protect the community against injuries originating or concentrated in other areas; local opinion may discourage prosecution of crimes such as civil rights offenses; local resources may be insufficient to investigate the crime; or, public confidence may prefer federal enforcement.

It is this aspect of federal criminal jurisdiction that has provoked the most controversy.[2] The promulgation of such federal criminal laws is fraught with the danger of displacement of state authority. Inevitably, such statutes also expose the individual to double liability, since he may be charged under either state law or federal law. In the case of certain federal criminal statutes, Congress has specifically provided that a prosecution or acquittal in a state court is a bar to federal prosecution for the same activities. In addition, it is the policy of the Department of Justice not to bring a federal prosecution following a state prosecution based on the same activities, except where there are the most compelling reasons in the public interest.

3. *Enforcement of federal regulatory and tax programs.* The growth of the federal criminal law in this area is concomitant with the recent expansion of the social and welfare programs of the federal government. Regulatory statutes characteristically contain an arsenal of civil and criminal sanctions to insure compliance. As a result, federal judges must frequently handle offenses that would be tried by magistrates or police courts in state legal systems. Recurrent proposals have been made in recent years to relieve this burden on district court judges by enabling lower federal officials such as United States commissioners to try minor offenses.

THE ROLE OF THE DEPARTMENT

History and General Organization. The office of Attorney General was established by Congress in 1789 as part of the President's cabinet, but it was not until 1870 that Congress established the Department of Justice. Prior to that time, the Attorney General was a part-time legal adviser. His office was traditionally small and personal. The creation of the Department of Justice resolved a continuing controversy by consolidating the government's legal operations in a single department, rather than scattering them among the various agencies of the executive branch.[3]

The same 1789 statute that created the office of the Attorney General also created a United States attorney for each judicial district. United States attorneys are appointed by the President for a term of four years, with the advice and consent of the Senate. It was not until 1861 that Congress entrusted the formal supervision of these attorneys to the Attorney General. Even after the creation of the Department of Justice, however, the United States attorneys did not completely lose their tradition of independence.

At present, there are 93 United States attorneys, one for each of the 93 federal judicial districts into which the United States is divided. Together with their assistants, they are the federal prosecutors, the federal district attorneys. They have the primary responsibility for the enforcement of federal law. As Robert H. Jackson described them many years ago when he was Attorney General, they are one of the most powerful peacetime forces known to our country. They have immense power to strike at citizens, not with mere individual strength but with all the force of the federal government itself.

The divisions of the department entrusted with supervising the enforcement of the federal criminal laws are the Antitrust, Civil Rights, Criminal, Internal Security, and Tax Divisions, each of which is under the direc-

[2] See, for example, the narrow 5–4 decision of the Supreme Court in *Rutkin* v. *United States*, 343 U. S. 91 (1952), especially the dissenting opinion by Mr. Justice Black. See also the dramatic confrontation of the justices in *Screws* v. *United States*, 325 U. S. 91 (1945).

[3] For an excellent history of the Attorney General's office and the Department of Justice, see Homer Cummings and Carl McFarland, *Federal Justice—Chapters in the History of Justice and the Federal Executive* (New York: Macmillan, 1937).

tion of an Assistant Attorney General. As part of their enforcement operations, these divisions supervise the investigation and detection of violations of federal criminal statutes, provide legal assistance in prosecuting cases, construe the laws under which other agencies and departments of the government act, and supervise the activities of the United States attorneys.[4]

The present law enforcement structure of the Department of Justice is the product of a gradual evolution. A nucleus of attorneys closely identified with federal criminal matters came into existence about 1915. The Criminal Division itself was first mentioned in the Attorney General's annual report for 1919. Prior to that time, criminal matters were not concentrated in one division, but were assigned, occasionally on a rotating basis, to the assistant attorneys general.

For a brief period in 1933, the Criminal Division was entrusted with carrying out the functions of the Tax Division. Between 1933 and 1935, the 73d Congress enacted 13 major statutes in the field of criminal law and procedure, and the work of the division was greatly increased. In subsequent years, its responsibilities covered many broad areas. For example, the Civil Rights and Internal Security divisions both originated, in 1940, as sections within the Criminal Division. The contemporary functions of the Criminal Division are described in a following section.

The Antitrust Division, established in 1903, has primary responsibility for the enforcement of the federal antitrust laws. Its activities include investigating possible violations, conducting grand jury proceedings, preparing and trying cases and appeals, and negotiating and enforcing final judgments.

The Internal Security Division, established in 1954, supervises the enforcement of all laws affecting the national security. It also supervises the prosecution of cases under the Atomic Energy Act and the Smith Act, as well as any other criminal cases directly involving subversives.

The Civil Rights Division, established in 1957, has the responsibility for enforcing all federal statutes dealing with civil rights. It also investigates and prosecutes federal, state and local law enforcement officers who mis-

TABLE I: CRIMINAL CASES IN FEDERAL COURTS

(Criminal cases commenced in federal courts during the fiscal year 1966, by nature of offense, excluding transfers from other federal courts.)

General Offenses	
Homicide	174
Robbery	903
Assault	469
Burglary	527
Larceny and theft	2,451
Embezzlement	1,276
Fraud	2,511
Auto theft	5,011
Forgery and counterfeiting	3,411
White slave traffic	99
Other sex offenses	174
Narcotics	2,077
Bribery	53
Drunk driving and traffic	70
Escape	354
Extortion and racketeering	116
Gambling and lotteries	160
Kidnapping	40
Perjury	58
Weapons and firearms	272
Other	110
Special Offenses	
Immigration	3,166
Liquor, Internal Revenue	2,564
Agriculture	73
Antitrust	12
Civil rights*	383
Fair labor standards	23
Food and drugs	356
Migratory birds	492
Motor carriers	825
National defense	770
Mail, obscene material	135
Other	614
Total	29,729

* All but 12 of the civil rights cases were cases removed from state courts for prosecution in the federal courts, pursuant to a civil rights statute enacted following the Civil War.

Source: Annual Report of the Director, 1966, Administrative Office of the United States Courts (Washington, D. C.).

[4] For further details of the organization, responsibility, and activity of the Department of Justice, see "Department of Justice," *United States Government Organization Manual 1966–67,* pp. 215–230. For sale by the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402, $2.00 per copy.

use their authority to deprive a citizen of his constitutional rights.

The Tax Division supervises the enforcement of the criminal provisions of the internal revenue laws, including attempts to evade and defeat taxes, willful failure to file returns and to pay taxes, making false statements to revenue officers, and filing false returns.

There are two bureaus within the Department of Justice whose activities are directly related to federal law enforcement and criminal justice. The functions of the Federal Bureau of Investigation are described in a subsequent section. The Bureau of Prisons supervises the operation of 38 federal penal and correctional institutions. These include the six federal penitentiaries at Atlanta, Georgia, Leavenworth, Kansas, Lewisburg, Pennsylvania, McNeil Island, Washington, Marion, Illinois, and Terre Haute, Indiana, as well as four reformatories, four juvenile and youth institutions, a group of correctional institutions, camps and prerelease guidance centers, and a medical center. The bureau also contracts with state and local institutions for the confinement and support of federal prisoners, and supervises the Federal Prison Industries, Inc., which sponsors vocational training programs in all federal penal and correctional institutions.

Also within the Department of Justice, the Board of Parole supervises the parole and mandatory release of federal prisoners, and the Office of the Pardon Attorney deals with the investigation and disposition of applications to the President for pardon or other executive clemency.

The Volume and Nature of Federal Criminal Prosecutions. As indicated in Table I, there were 29,729 criminal cases filed in the United States district courts in the fiscal year 1966. The relative concentrations of federal law enforcement activity are indicated by the percentage distributions of these cases in the broad categories shown in Table II.

TABLE II: FEDERAL CONCENTRATION

Auto theft	16.9%
Embezzlement, fraud	12.7
Forgery, counterfeiting	11.5
Immigration	10.7
Liquor, internal revenue	8.6
Larceny, theft	8.2
Narcotics	7.0
Homicide, robbery, assault, burglary	6.9
Other	17.5
	100.0

Over the past ten years, the number of criminal cases filed has remained relatively constant at approximately 28,000–30,000. The increase in federal criminal prosecutions during the present century is not so great as might be anticipated. From 1905 to 1917, excluding two peak years in World War I, the number of cases filed varied from 12,000 to 20,000 per year. From 1920 to 1935, the number ranged from 20,000 to 30,000, excluding prohibition cases.[5] Since 1935, the number has ranged from 30,000 to 40,000, the larger figure being reached as a result of price control and rationing cases during World War II, or because of efforts to enforce the immigration laws along the Mexican border.[6]

The Criminal Division. The Criminal Division of the Department of Justice exercises general supervision over the enforcement of all federal criminal statutes, with the exception of those specifically assigned to the Antitrust, Civil Rights, Internal Security, and Tax Divisions.

Although the United States attorneys have primary responsibility for federal law enforcement in their districts, it is the role of the Criminal Division to provide the centralized supervision and guidance that is essential to secure the uniform and consistent administration of the federal criminal laws in all parts of the country. To this end, the Criminal Division cooperates closely with the United States attorneys, renders advice on questions of law and procedure, and establishes uniform standards of investigative and prosecutorial policy under the various statutes within its supervisory jurisdiction. For certain types

[5] If prohibition cases are included, the range for the period 1920–1935 is increased to 55,000–90,000.

[6] In 1951, for example, 14,900 cases were filed under the immigration laws.

of violations, a specific authorization must be obtained from the division before a prosecution may be initiated.

The Criminal Division also provides specialized assistance to the United States attorneys in connection with grand jury investigations, indictments, trials and appeals, especially in the areas of fraud and organized crime. Division attorneys review and evaluate many cases referred from the FBI and agencies outside the Department of Justice, including complaints from the general public, in order to determine whether prosecution is warranted. In addition, the division furnishes a variety of assistance to state and local law enforcement offcers and private organizations. Currently, it is also sponsoring nationwide crime-prevention programs to fight auto theft and burglary, and a pilot education program in public schools to reduce crime among juveniles.

The work of the Criminal Division is carried on by 160 attorneys in four operating sections—General Crimes, Fraud, Organized Crime and Racketeering, and Administrative Regulations—and two supporting sections—Appellate, and Legislation and Special Projects. A brief outline of the activities of these sections reveals the broad scope of federal law enforcement.

The General Crimes Section supervises the enforcement of approximately 800 sections of the United States Code in five major areas: integrity in government operations, including bribery, conflict of interest, and other improper use of government office; theft of government property; protection of the channels of interstate commerce, including kidnapping, theft or destruction of property in interstate shipment; safeguarding the postal system, including robbery and theft from the mails, extortion, and the mailing of obscene material; and general law enforcement in the maritime and territorial juridiction of the United States.

The Fraud Section supervises the enforcement of a group of federal criminal statutes involving commercial frauds and frauds against the government. The government is the largest single purchaser of goods and services in the world, and active law enforcement is essential to safeguard the nation's domestic economy and international policy. The federal mail fraud statute is an effective weapon protecting the consumer and the small businessman from fraudulent exploitation by schemes to defraud, which are limited only by the ingenuity of man. They include flagrant work-at-home frauds; fraudulent advance fees for financing; chain referral frauds; fraudulent sales of distributorships, franchises, land, or stock; planned bankruptcy schemes; and frauds that prey on medicine, marriage, charity, religion, insurance, airlines and many other activities.

The Organized Crime and Racketeering Section supervises the prosecution of criminal violations that reflect organized criminal activity of an interstate nature. In addition, the section supervises the enforcement of the liquor and narcotics laws, the wagering tax laws, the labor-management racketeering laws, the gambling device laws, and the anti-racketeering statutes enacted by Congress in 1961. The section also plays a significant role in enforcing the federal income tax laws against individuals engaged in organized crime. Because of the vigorous enforcement of federal statutes in the traditional enclaves of organized crime such as gambling, narcotics, loan-sharking, prostitution and labor racketeering, racketeers have turned increasingly to the corruption of legitimate business and to frauds against honest wholesalers and suppliers. Occasionally, the tremendous wealth acquired by the organized underworld finds its way into the hands of corrupt public officials who provide protection for the racketeers.

Under procedures established by President Lyndon B. Johnson, the section coordinates the operations of 26 federal law enforcement agencies involved in the campaign against organized crime. By the end of 1966, the section had increased its files to more than 300,000 cards, representing a continuous analysis of the activities and associations of more than 3,000 principal racketeers in the United States. As a result of this campaign, 1,198 racketeers were indicted

TABLE III. FEDERAL RACKETEERING PROSECUTIONS

	1960	*1961*	*1962*	*1963*	*1964*	*1965*	*1966*
Number of criminal informations and indictments	17	45	118	262	316	491	609
Individuals indicted	19	121	350	615	666	872	1198
Individuals convicted	45	73	138	288	593	410	477

during 1966 on criminal charges brought by the Department of Justice, up 37 per cent over the prior year. Only 19 racketeers were indicted in 1960, the year before the department began its current program. Comparative statistics for the six-year operation of the program are given in Table III.

The Administrative Regulations Section supervises the enforcement of criminal sanctions under the various federal regulatory statutes and the customs laws. It also supervises matters arising under the immigration and naturalization laws, as well as criminal statutes such as the White Slave Traffic Act, the Federal Wiretapping Act, the Fair Labor Standards Act, and the Food, Drug and Cosmetic Act. Much of the section's work is geared directly to the protection of the nation's consumers. A growing problem confronting the section is the illegal sale of dangerous drugs. The enormous profits from such sales have attracted members of organized crime rings and have led to the increased production of counterfeit drugs.

The Appellate Section handles the heavy responsibilities of the Criminal Division at the appellate level of litigation. Its work consists primarily of the preparation of briefs and presentation of arguments in the Supreme Court on assignment by the Solicitor General. The section also renders assistance and advice to the United States attorneys on briefs and arguments in the eleven federal courts of appeals.

The Legislation and Special Projects Section was established in 1966 to take responsibility for the division's legislative program and to pursue various projects in the area of law enforcement and criminal justice. The principal legislative projects of the section have been concerned with organized crime, wiretapping and eavesdropping, narcotics, bail reform, election reform, food and drug amendments, firearms, and federal aid to state and local law enforcement.

The section is currently exploring the use of computers for the storage and retrieval of materials on statutory and case law. It also assists the United States attorneys in the orientation and training of new attorneys in trial tactics and in division policies.

The FBI. The Federal Bureau of Investigation is the principal investigative arm of the Department of Justice. Its 15,684 employees, including 6,555 special agents, are located in the national headquarters in Washington, D.C., in 57 field offices in major cities in the United States and Puerto Rico, and in 12 liaison posts in foreign countries. Over 71 per cent of the special agents have served more than ten years with the bureau, a traditionally low turnover rate that provides it with a reservoir of experienced employees.

The FBI is responsible for handling some 170 federal matters explicitly entrusted by law to its investigative jurisdiction. In the fiscal year 1966, convictions in cases investigated by the FBI totaled 13,023, a new high for any peacetime period. Almost 97 per cent of the persons brought to trial in FBI cases were convicted, 89 per cent on guilty pleas. Fines, savings and recoveries reached a record high of more than $253,000,000, equivalent to a return of $1.50 on every dollar appropriated for the FBI during the year.

In addition, 21,164 stolen motor vehicles were recovered in FBI cases, and the FBI located 14,323 fugitives during the fiscal year,[7]

[7] The Fugitive Felon Act authorizes the FBI to conduct investigations to locate persons who have fled across state lines to avoid prosecution, custody, confinement, or giving testimony where state felonies are involved. The act is one of the most effective federal laws aiding state and local law enforcement.

including 20 whose names had appeared on the bureau's "Ten Most Wanted" list. Since the program was initiated in 1950, 228 "Top Ten" fugitives have been located.

A major program of the FBI is its drive against organized crime. Through its efforts, the bureau has gathered significant information on the income and activities of many racketeering operations. Its increasing penetration of these criminal conspiracies has developed evidence for numerous important prosecutions and has frequently disrupted the operations of the organized crime syndicates.

There are several other major categories of the FBI's investigative jurisdiction. Under the antitrust laws, the bureau investigates monopolies and restraints of trade in interstate commerce. Under the Federal Bank Robbery Statute, it investigates robberies, burglaries, and larcenies from federally insured institutions. In fiscal 1966, a new high of 870 convictions for the latter group of crimes was recorded.

An increasingly important area of FBI investigative activity is in civil rights. Important convictions have been obtained as a result of bureau investigations conducted under the federal civil rights statutes enacted after the Civil War. In fiscal 1966, the FBI investigated more than 1,800 cases under the Civil Rights Act of 1964, including allegations of discrimination in public accommodations, public facilities, public schools and employment. Even though the act does not provide criminal penalties for such discrimination, investigations carried out by the FBI have frequently led to voluntary compliance with the statutes.

Another significant area of FBI investigation takes place under federal statutes concerned with interstate transportation crimes. The major problem here is the existence of highly organized automobile theft rings, which every year transport thousands of cars across state lines. At the end of the fiscal year 1966, the bureau had 55 such gangs under investigation.

The FBI also plays a major role in training and assisting state and local law enforcement officers in areas such as arrest, search and seizure, civil rights, firearms, and latent fingerprint techniques. In 1966, bureau personnel participated in more than 5,400 police training schools throughout the nation.

The FBI National Academy at Quantico, Virginia, the "West Point of Law Enforcement," is a nucleus for professional police training throughout the United States. By the end of 1966, graduates of the academy totaled 5,036.

In addition, thousands of state and local law enforcement agencies have taken advantage of the cost-free services provided by the FBI Laboratory and the FBI Identification Division for specimen and fingerprint examination. The functions of the laboratory include analysis of documents, photographs, and shoe and tire prints, as well as analytical techniques in physics, chemistry, radio, and engineering, and research into new methods of crime detection.

During fiscal 1966, more than 22,000 fugitives were identified by the Identification Division, which now has over 183 million fingerprint cards in its files, representing an estimated 80 million persons. Of the total prints in this file, over 52 million were taken in connection with arrest. The remainder, the civil file, includes prints of federal employees, servicemen, aliens, miscellaneous applicants, and those submitted for personal identification purposes. In fiscal 1966, almost 7 million sets of fingerprints were received for searching, an average of more than 27,000 for each workday. In addition, the Latent Fingerprint Section of the Identification Division examined more than 160,000 specimens for the presence of latent impressions.

The FBI also publishes an annual bulletin, the *Uniform Crime Reports,* which provides information on crime trends and rates in the United States. The data are compiled with the cooperation of law enforcement agencies throughout the country. In addition, the bureau publishes a monthly professional journal, the *FBI Law Enforcement Bulletin,* not available to the public, which deals with current problems of law enforcement.

In 1965, the FBI began development of a

nationwide computerized data system, to be known as the National Crime Information Center. The center went into operation in January, 1967, in a pilot test phase. Its high-speed computers link 15 states and major metropolitan areas in the United States. The center is on the air eight hours a day. By July, 1967, it will operate 24 hours a day. When completed, the computers will be able to furnish all law enforcement agencies with instant data on crime and criminals. At the present time, the center stores more than 75,000 items of information for the identification of fugitives, stolen automobiles, and stolen property, according to standards formulated by the National Crime Information Center Advisory Group, made up of local, state and federal law enforcement officials.

The center's enormous potential for massive information storage and rapid retrieval is already repaying its investment. In a matter of a minute and a half, a patrol car on a beat can make a rolling check on a suspicious vehicle or learn the identity of a suspected fugitive. The center represents an aggressive forward step in efficient law enforcement, a joint venture binding together state and federal agencies as they have never been before.

FEDERAL SUPPORT FOR LOCAL LAW ENFORCEMENT

In July, 1965, President Johnson appointed a National Crime Commission to make a comprehensive study of crime in the United States. The Commission's report,[8] issued in February, 1967, noted that there are many important problems that our states, cities and towns cannot solve on their own. The Commission recommended sustained and substantial federal assistance to aid state and local governments in rooting out crime and violence and in improving their systems of law enforcement and criminal justice.

Acting immediately on the Commission's report, President Johnson submitted to Congress in March the "Safe Streets and Crime Control Act of 1967." The proposed statute offers a major program of federal grants-in-aid for local law enforcement. It is a direct outgrowth of the Commission's studies, and it is intended to implement many of its major recommendations. Consistent with the constitutional principles of our federal system, the statute is based on a scrupulous respect for the integrity and independence of state and local authorities.

Since 1965, the Department of Justice has been engaged in a modest but successful campaign to reform and upgrade the nation's struggle against crime. Under the Law Enforcement Assistance Act of 1965, the department has funded numerous research and pilot projects that have provided valuable data and have laid the necessary foundation for the broad grant program proposed under the Safe Streets and Crime Control Act.

The new program recommends the appropriation of $50 million for the fiscal year 1968 and $300 million for the following year to aid state and local governments in improving all aspects of their programs for police, prosecution, courts, corrections and crime prevention. It proposes four basic categories of grants: construction grants, in which the federal share will be up to 50 per cent; action grants of up to 60 per cent; planning grants of up to 90 per cent; and research and special project grants in which the federal government may pay the entire cost of the project.

To qualify for the action grants and construction grants, an applicant will first be required to increase its own expenditures for law enforcement and criminal justice above the average national increase of five per cent per year. The federal grants under the statutory formulas will then be applicable to

(*Continued on page 52*)

[8] *The Challenge of Crime in a Free Society,* Report of the President's Commission on Law Enforcement and Administration of Criminal Justice. For sale by the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402, $2.25 per copy.

Before his appointment to the U. S. Department of Justice, **Fred M. Vinson, Jr.,** was in private law practice. He is presently engaged in developing government programs aimed at combatting organized crime.

". . . the principal functions of the Federal Bureau of Narcotics are the suppression of the illicit narcotics traffic and the control of the legitimate trade in narcotics in the United States," writes this former official of the bureau, who points to the half-century of accomplishments of this federal agency.

The U.S. Bureau of Narcotics

By Malachi L. Harney
Formerly with the U.S. Bureau of Narcotics

The United States Bureau of Narcotics, frequently referred to as the Federal Bureau of Narcotics, is one of the six law enforcement agencies of the Treasury Department of the United States. This bureau assists in carrying out the law enforcement responsibilities and treaty obligations of the United States with respect to certain drugs.[1]

It should be borne in mind that the responsibilities of the bureau are confined to a rather narrow range of specifically enumerated drugs. These are opium (such as raw opium and powdered opium) and mixtures and preparations of opium (such as laudanum and paregoric), the alkaloids and derivatives of opium (including such products as morphine, heroin, codeine, Dilaudid), and semisynthetic derivatives of opium. Only one plant, the opium poppy (Papaver somniferum) naturally produces opium and its production in this country is regulated by the Poppy Control Act of 1942. Also within the bureau's jurisdiction are wholly synthetic substances which are found to have the addiction-sustaining liabilities of morphine and are so proclaimed by the commissioner of narcotics. These are legally designated as "opiates" (Demerol, Methadon, and so on).

A second category of drugs for which the bureau is responsible includes the coca leaf and its derivatives (cocaine).

A third category is marihuana. This is a product of the plant Cannabis sativa L. Like opium, only one species of plant naturally produces the active drug principle of marihuana. That is Cannabis sativa, sometimes known as Cannabis indica or Cannabis mexicana. In the United States, the usual appearance of this drug is as marihuana, which is the coarsely pulverized leaves and flowering tops of the cannabis plant. The intoxicating principle occurs throughout the growing plant except in the seeds (however, in the federal definition and in most states, seeds are included). The active principle is most highly concentrated in a sticky resin produced in the flowering top as the seeds develop. In addition to its appearance in the illicit traffic as marihuana, cannabis may be found as the hashish of the Middle East. This is the more or less concentrated resin from the flowering tops. In various countries of the world, cannabis in various forms may be offered as a drug of dissipation under such names as kif, takrouri, dagga or bhang.

The Federal Bureau of Narcotics does not have responsibilities in connection with many other chemicals generally described as dangerous drugs such as the barbiturates, amphetamines, tranquilizers and the hallucinogens (such as the currently notorious LSD—

[1] For more extensive treatment of the bureau's obligations, see U.S. Treasury, *The United States Treasury* (Washington, D.C.: U.S. Treasury Department, Office of Information, 1966).

lysergic acid diethylamide). For historical and enforcement reasons, including the international traffic and treaty considerations, for example, the Federal Bureau of Narcotics has sought to refrain from entering this field. The federal control of such dangerous drugs is vested in the Bureau of Drug Abuse Control of the Department of Health, Education, and Welfare.

BASIC PROGRAM

In a statement before the Permanent Subcommittee on Senate Investigation on July 28, 1964, U.S. Commissioner of Narcotics Henry L. Giordano said:

> Even before the creation of the Bureau of Narcotics in the Treasury Department in 1930 the Federal Government established a three-fold program in attacking the narcotic addiction problem. We have continued to follow this program:
>
> 1. A strong, vigorous law enforcement policy aimed at exacting stringent punishment for illicit traffickers in narcotics.
> 2. Proper treatment and effective rehabilitation of addicts with a view to curing addiction.
> 3. International and national cooperation with enforcement agencies to help eliminate the local violators and the foreign sources of supply.

In summary, the principal functions of the Federal Bureau of Narcotics are the suppression of the illicit narcotics traffic and the control of the legitimate trade in narcotics in the United States. To perform these functions, there are 13 domestic district offices of the bureau and 25 domestic branch offices in the United States. In order to combat illegal narcotic distribution near the source, the bureau has a worldwide distribution of personnel with offices in Rome, Italy; Paris and Marseille, France; Beirut, Lebanon; Istanbul, Turkey; Mexico City and Monterrey, Mexico; Lima, Peru; Bangkok, Thailand; Singapore; Hong Kong; and Seoul, Korea.

In carrying out its law enforcement responsibilities, the bureau has the assistance of other Treasury law enforcement agencies, principally the United States Bureau of Customs. It receives much cooperation and support from non-Treasury United States law enforcement agencies. It also collaborates closely with state and local government agencies, many of which have specialized narcotic law enforcement units. The strong international interest of the bureau is apparent from the nature of its problems. Practically all the drugs which it seeks to control originate outside of the United States: opium from the Near East, Mexico, and the Far East; cocaine from Bolivia and Peru; marihuana from Mexico (with inferior growth in the U.S.).

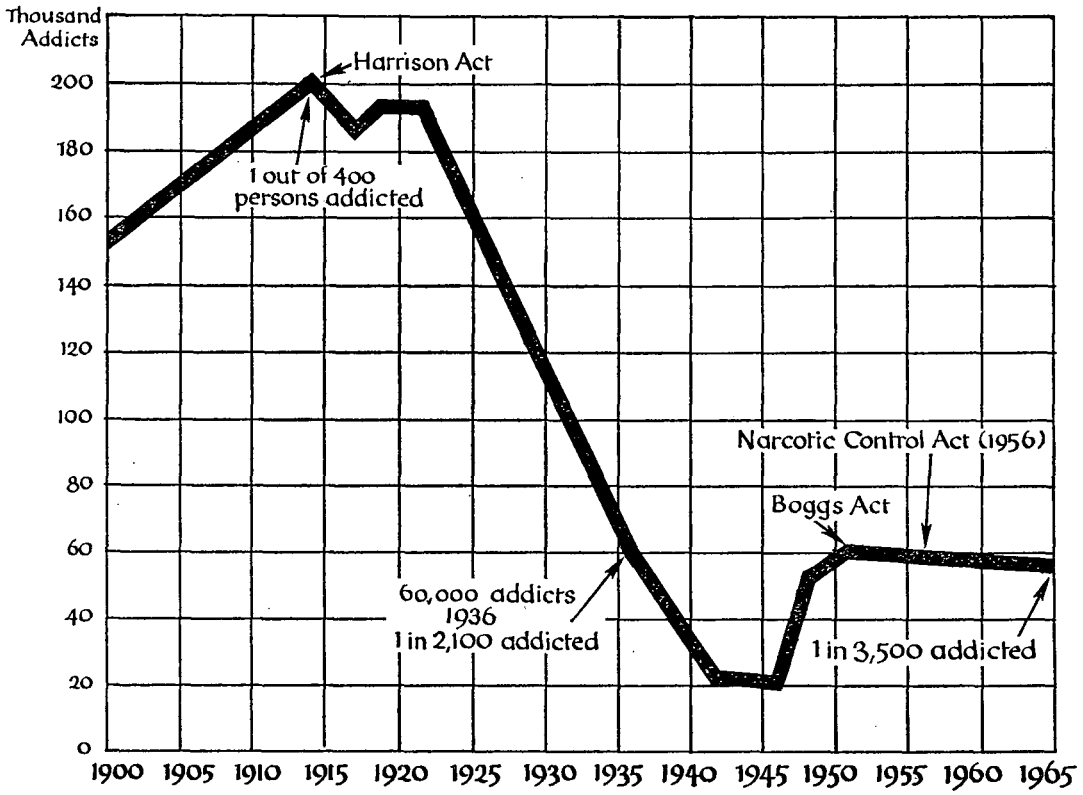
In its intercontinental narcotic law enforcement endeavors the bureau of course must work closely with, and only at the invitation of, the police agencies of many foreign countries. The bureau maintains a close liaison with the International Criminal Police Organization—INTERPOL. Because of these extensive cooperative relationships with local and foreign police of all types, the bureau's small complement of about 300 Treasury agents is able to make a most impressive showing in narcotic control.

HISTORY OF THE NARCOTIC PROBLEM

The young American republic had no special narcotic problems, at least none that were recognized. For several years beginning in the late 1830's, American merchants operating in the finest flowering of the shipbuilder's art, the Yankee Clipper, were intermittently participating in British efforts to force open a trade door to China. A principal trade commodity, sometimes thrust on the Chinese at cannon point in payment for Chinese tea, was Indian opium. The production of opium was a large source of tax revenue to Britain's India. This is not to say that opium was then a new experience to the Chinese. Opium eating and smoking long had been a devastating vice. The reigning Chinese emperor recognized this and was attempting to destroy an almost insatiable market among his people for opium. In this atmosphere, the British, with some American help, dumped tons of opium on the Chinese, and the British fought the so-called Opium Wars to force China to open its ports.[2]

[2] Edgar Holt, *The Opium Wars in China* (Chester Spring, Pa.: Dufour Editions, 1964).

FIGURE 1: NARCOTIC ADDICTION IN THE UNITED STATES*



* Source: U.S. Bureau of Narcotics

Cause of Addiction 1900–1915

1. Chinese opium smoking.
2. Civil war opium eaters.
3. Invention and use of hypodermic needle.
4. Opium, marihuana and heroin freely available.
5. *Heroin introduced as cure for morphine.*
6. Opiates as cure for alcoholism.
7. Opium content of patent medicines.
8. Opiates only analgesic available.
9. Laudanum.

Traffic Supplied By, 1900–1915

1. *Free legal sale of manufactured* drugs.
2. Chinese, Persian and Indian smoking opium (small tax).

Characteristics, 1900–1925

1. Heavy habits: 2 to 10 grains per day, some 20 to 40 grains.
2. *Many cocaine users.*
3. Opium smoking common.

Addiction, 1900–1945

1. Predominantly Caucasian and Chinese.

Characteristics, 1925–1940

1. Light habits.
2. Cocaine disappears.
3. Five male to one female.
4. Opium smoking on wane.

Traffic Supplied By, 1920

1. Doctors.
2. Illegal purchases from pharmacies.
3. Official Clinics.
4. *Diversion from factories and* wholesalers.
5. Far and Near East opium.
6. Peruvian, Bolivian and Japanese cocaine.

Traffic Supplied By, 1920–1940

1. Imports from manufacturers in *Switzerland, Germany, France, etc.* (smuggling).
2. Production of Japanese heroin and morphine factories.
3. Rx forgeries and wholesalers diversion.
4. Small drug store larcenies.
5. India, China and Near East opium.
6. Limiting of manufacture to world medical needs puts accent on clandestine factories in Europe and Near East.
7. Clandestine manufacture of heroin and morphine in Europe and Near East.

Cause of Addiction, 1945 to Date

1. Italian heroin diversion.
2. Chinese Communist traffic.
3. Turkish, Lebanese, Syrian and Italian heroin.
4. Light penalties (heavy penalties enacted 1956).
5. Peruvian cocaine diversion 1946–1948.
6. Reduced enforcement (F.B.N. Training School established 1956).
7. Juvenile delinquents.

Traffic Supplied By, 1940 to Date

1. Turkish, Lebanese, Syrian, Chinese, *Italian and French heroin.*
2. Mexican heroin (California).
3. Mexican opium.
4. Drug store robberies, thefts and Rx forgeries.

Characteristics

1. 1946 to 1950, fairly heavy habits.
2. 1950 to Date, very light habits.
3. 1946 to Date, heroin addiction predominates.

Addiction, 1945 to Date

1. Majority Negro and Puerto Rican.
2. Chinese disappearing.

Narcotic Control Act (1956)

1. Increased enforcement programs of local police in major cities.

There were some qualms in Britain about the morality of forcing drugs on the Chinese. These were subordinated to such considerations as the necessity for trade with China; the pragmatic argument that the British merchants were only supplying a market which already existed; that opium use was a normal habit for inferior "heathen," and that anyway opium did not seem to have a bad effect on Chinese; that if British merchants did not supply opium in regular trade it would be smuggled; and other self-serving reasons. This type of thinking may be one of the underlying reasons why the British to this day are relatively resistant to opiate abuse. There is in the United Kingdom what has been called "a lack of cultural susceptibility" to opiates. (This does not prevent British Hong Kong from having one of the highest opiate addiction rates in the world.) Like the British, at the time of the Opium Wars the Americans showed no great tendency to adopt a "foreign vice." This was to come later.

It was not until after our Civil War that there was much indication of narcotic drug abuse in the United States. Between 1805 and 1817, chemists working on opium had isolated the chemical which became known as morphine. The hypodermic needle with a detachable metal point was invented about the middle of the century, but wide hypodermic use, particularly in the self-administration of narcotics, was slow in coming. The less potent gum or powdered opium or mixtures or tinctures such as laudanum or paregoric continued to be the preferred pain killers. But in the last half of the nineteenth century there was a substantial immigration of Chinese, many of whom belonged to the victimized coolie class who had been dragooned or shanghaied by their own relatives in China and shipped to the United States to fill work gangs on the railroads and other mass labor projects. They brought with them the habit of smoking opium. The conditions of their existence in the United States, single men in an almost womanless world, served to accentuate their reliance on drug use.

There were Chinese colonies in almost all large cities where opium-smoking dens could be found. Other segments of American society, particularly the underworld, irresponsible elements in the lower echelons of the entertainment industry, wealthy dissolutes, and hedonists seeking new thrills discovered the pleasures of opium. Many were introduced to opiates through its extensive use in patent medicines. Addicts discovered the greater efficacy of morphine, particularly through hypodermic injection.

Finally, in the 1890's, heroin, a derivative of opium, which had been reported as early as 1874, was put into common use as a pain killer, as an excellent remedy for the control of coughs—particularly in the then very common disease of tuberculosis—and, of all things, as a cure for morphinism. As such, the "cure" proved to be worse than the disease. Charles Fulton, in his article on heroin, described it as "the most dangerous drug in the world."[3]

As Charles Terry and Mildred Pellens put it:

> It has been stated that the widespread use of heroin as a substitute for morphine and as a more stimulating narcotic drug first became a matter of general knowledge in the underworld and that long before the average physician had become aware of the dangers of the drug it was being freely used by certain groups of young men, frequenters of the underworld districts.[4]

So, in the early twentieth century, there was an addict population in this country of some 200,000—about one person in every 400. (See Figure 1 for a brief outline history of narcotic addiction in the United States.) Most of these were heavily addicted because of the ready availability of very cheap drugs. Recognition of this situation and the concern of President Theodore Roosevelt about the ravages of smoking opium in the Philippines (then a recently-acquired dependency) trig-

[3] Charles Fulton, "Narcotics," *Encyclopedia of Chemistry—Supplement* (New York: Reinhold Publishing Corporation, 1957).

[4] Charles E. Terry and Mildred Pellens, *The Opium Problem* (New York: Committee on Drug Addiction in Collaboration with the Bureau of Social Hygiene, Inc., 1928).

gered this country's international and national drug control programs.

Although the Harrison Narcotic Act was passed in 1914, no special mechanics for enforcement of the narcotic laws were set up until about 1920. After almost a half century of operations, the great overall reduction in the incidence of opiate addiction from one in 400 to one in approximately 3,500 is perhaps most noteworthy. Just as encouraging is the great reduction in the daily drug intake of the addict. Most addicts today have such a small daily net opiate intake from highly diluted drugs that their practice is described as a "needle habit." Few now show any real withdrawal distress when abruptly cut off from drugs. Primarily this results from the scarcity and the high price of opiates brought about by enforcement of worldwide sanctions. This result was aptly described by Dr. Harris Isbell, one of the great medical experts on narcotics in this country:

> Battling the dilution (of opiates) by increasing the number or the size of the shots (injections of opiates taken by the addicts) is a losing game. The more shots he takes the faster the veins are used up. . . .[5]

The great contribution of worldwide narcotic control is further manifested by the fact that only an insignificant amount of addiction in this country is supported by drugs diverted from pharmaceutical or medical sources. This evidences the continuing cooperation of the medical and pharmacal professions. For many years drug peddlers have had to look almost exclusively to clandestine sources for drug supplies. Another indication of progress is often cited, but bears repetition. In World War I, about one man in every 1,100 was rejected for narcotic drug addiction. In World War II, that figure was reduced to only one in 10,000.

The U.S. Bureau of Narcotics put the number of active addicts reported to it near 60,000 in December, 1966. A breakdown by ethnic characteristics of addicts reported to the United States Bureau of Narcotics that same year reveals that some 50 per cent of the addicts are Negro—a great change from the predominantly Caucasian and Chinese characteristics of addicts in the first four decades of this century. Figure 2 shows that opiate addiction is today a disease of big cities, not all, but some of them. Again, this differs from earlier addiction history, when opiate abuse was more uniformly distributed geographically, although its concentration always has had an urban emphasis.

The foregoing exhibits do not refer to cocaine or marihuana use. It would be difficult to devise any realistic method for identifying and counting marihuana users. Since the early 1930's cocaine dissipation has been rare, with occasional small flareups, but it remains a matter for constant concern.

Marihuana did not become a noticeable problem until about the second or third decade of this century. Cannabis is rarely found here in its more highly concentrated forms such as hashish. In recent years, there are some indications, highly and perhaps overly publicized, but nevertheless real, of some rise in a fad form of marihuana use. In some quarters, there has been a disposition to downgrade the danger of a drug which for centuries has proved itself the curse of whole civilizations (Egypt and India, for example). Recently, some knowledgeable experts have been reviewing this trend.

Dr. Maurice H. Seevers, chairman of the department of pharmacology of the University of Michigan, points out that the place of marihuana in the world today is just where it has stood for the last thousand years. In the countries of the Eastern world it appeals to religious ascetics, the miserably poor and the dissolute. In the West, the appeal is to persons maladjusted, socially and psychologically, and to curious young thrill seekers.[6]

Mr. Donald E. Miller, chief counsel of the United States Bureau of Narcotics, in a paper presented to the National Association of Student Personnel Administrators Drug Education Projects, Washington, D.C., in Novem-

---

[5] Malachi L. Harney, "Trial and Failure of the Ambulatory Treatment of (Opiate) Drug Addiction in the United States," *U.N. Bulletin on Narcotics,* Vol. 16, No. 2 (April–June, 1964).

[6] Maurice H. Seevers, "Marihuana in Perspective," *Michigan Quarterly Review,* Vol. 4, No. 4 (1966), pp. 247–51.

ber, 1966, after commenting on the low concentration of the toxic principles in American-type marihuana, said:

> There is medical agreement that the active ingredients of marihuana, the tetrahydrocannabinols, are powerful and dangerous compounds when used in intoxicating proportions. The potent parts of the plant have been used from very ancient times and there are claims that it is the most widely abused drug in the world today.

Miller went on to say that if marihuana were legalized

> the use of hashish and perhaps pure tetrahydrocannabinol would develop. Just as refinements of the opium poppy finally made available the drugs heroin and morphine. . . .

Almost invariably, we see a significant number of marihuana users graduate into heroin addiction. We can expect that an unfortunate legacy of the present marihuana fad will be the addiction to heroin of some people who might not otherwise have been reached by this destructive drug. The writer's own quick estimate of the dangers of cannabis is this. When it was still considered to have some pharmaceutical value the accepted way to determine its potency was by biological test. Dogs were used for the purpose. Thereafter it was necessary to destroy the dogs because their central nervous systems were badly damaged.

ORGANIZED CRIME AND THE BUREAU

The Federal Bureau of Narcotics, considering its small size, has made a disproportionately large contribution to the war against organized crime in this country. Its leadership, starting with its long-time (1930–1962) first commissioner, Harry J. Anslinger, has been very much "organized crime minded." That philospohy still continues in the bureau.

Narcotics are not the principal source of revenue of organized crime in America, as has been sometimes too enthusiastically claimed.* Extortion and gambling are perhaps far and away the largest sources of illicit income of the organized mobs. (In later years, of course, powerful organized crime figures have extended their activities into "legitimate" business of many kinds. The amount of their "take" from these sources is enormous but hard to estimate with any real accuracy.) However, illicit narcotics have been an important source of gain for organized criminals and from this fact there developed the policy of a continuing close scrutiny of organized crime establishments by the bureau. The result has been, as suggested above, the successful prosecution of a relatively large number of members of gangster organizations through efforts of the bureau. Moreover, information obtained by the bureau in surveying the activities of organized crime suspects has been furnished in great volume to other appropriate law enforcement agencies in federal, state and local areas and to legislative bodies, contributing to many successful law enforcement campaigns.

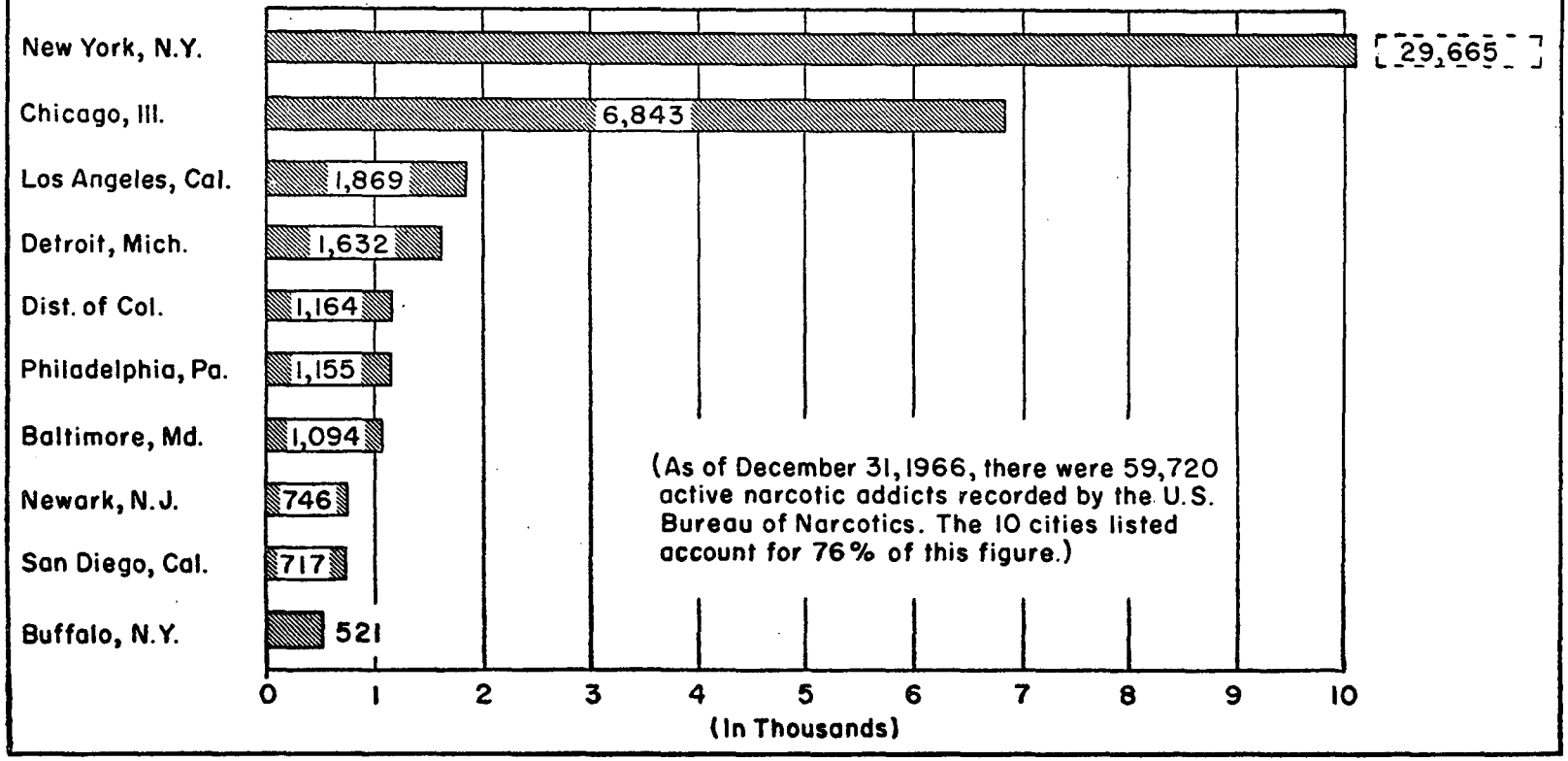
By way of illustration, one of the largest and most vicious of organized gangs in this country was "Murder, Inc.," with headquarters in New York City. Many members of this group were active in the illegal liquor traffic during prohibition, although it may be that even then their principal sources of revenue were extortion and gambling. After repeal of prohibition, the gang continued to maintain extensive operations, a large part of which were extortion in connection with labor racketeering in the garment and baking industries in New York. The leader of the mob was Louis "Lepke" Buckhalter, a cunning and ruthless criminal. He had at his disposal a substantial "troop" of professional killers. Extortion demands and other gang edicts were enforced with cold-blooded ferocity that earned the organization its title of Murder, Inc.

Narcotics were not a principal concern of Buckhalter's operation, although some of his associates were found in and out of the traffic. But about 1936 Lepke dipped into the narcotic traffic. The Bureaus of Narcotics and Customs jointly developed a case against him and about 30 co-conspirators, in which he was convicted in 1939 and received a long term in the federal penitentiary. Subsequently he was "lent" to New York authori-

* Ed. Note: For a discussion of organized crime and the Mafia, see *Current History,* June, 1967.

FIGURE 2:

TEN LEADING CITIES IN ACTIVE NARCOTIC ADDICTS REPORTED IN THE UNITED STATES AS OF DECEMBER 31, 1966*



*Source: U.S. Bureau of Narcotics

ties to be tried and convicted for extortion and murder. He and two aides were executed. In the murder case, agents of the Bureau of Narcotics contributed materially to the prosecution. Later evidence produced by the bureau resulted in the conviction for murder of four additional members of Murder, Inc.[7]

The Mafia (sometimes called Cosa Nostra), a Sicilian extortion terrorist organization, has been an accepted fact of life of organized crime in Italy for about two centuries. Elements of this group were transplanted to this country by immigration in the late nineteenth century. During prohibition, rival liquor mobs found the code of silence and the discipline of terror of the Mafia to be extremely useful in carrying out criminal enterprises. In that era, the Mafia had a source of some revenue in illicit narcotics. This interest continued after repeal.

Recognition of the modern Mafia as a factor in American crime was given great impetus when Harry J. Anslinger, then commissioner of narcotics (1950), directed this writer to compile for submission to the Kefauver Committee a list of names of persons whom the investigative work of the bureau indicated might belong to the hidden society of the Mafia.[8] About 800 names were submitted to the subcommittee. Continuing inquiries over the years reinforced this information. In 1963, another senate committee (McClellan) produced a greatly detailed report showing interlocking family, business, and criminal relationships among many alleged mafiosi in this country.[9] It was almost unprecedented when the committee produced a member of the Mafia (Cosa Nostra) who had been convicted of narcotic trafficking to testify in open hearings on the "family" organization of some Mafia segments. Among suspected mafiosi convicted in recent years as high echelon narcotic traffickers are Vito Genovese, "Big John" Ormento, Carmine Galante and Joseph Valachi.

NARCOTIC AGENTS AT WORK

Miriam Ottenberg, in her excellent book, *The Federal Investigators,* has a chapter on the United States Bureau of Narcotics. She refers to the fact that with a force of only about 300 agents, less than 2 per cent of the total of federal law enforcement officers, the Bureau of Narcotics is responsible for close to 17 per cent of the convicts in federal prisons.[10] She describes the agents as shrewd, dedicated, fearless and unorthodox; a conglomerate of many nationalities and races who need patience, fast footwork, and the ability to pose and dissemble as undercover operators sometimes for years at a time.

One of the best summaries of the work of the agents of the United States Bureau of Narcotics appears in the *Congressional Record,* in a speech by the Honorable Tom Steed, congressman from Oklahoma. Mr. Steed for some time has been chairman of the Appropriations Subcommittee of the House of

(*Continued on page 50*)

---

[7] Harry J. Anslinger and William F. Tompkins, *Traffic in Narcotics* (New York: Funk & Wagnalls, 1953). See also U.S. Bureau of Narcotics, *Annual Reports,* 1937, 1939, 1944; and Burton B. Turkus, *Murder Incorporated: the Story of the Syndicate* (New York: Farrar, Straus and Young, 1951).

[8] U.S. Senate, *Hearings before a Special Committee to Investigate Organized Crime in Interstate Commerce,* 81st and 82nd Congresses, 1950–51 (Washington, D.C.: Government Printing Office, 1951).

[9] U.S. Senate, *Hearings before the Permanent Subcommittee on Investigations of the Committee on Government Operations,* 88th Congress, 1st Session, Pts. 1–3 (Washington, D.C.: Government Printing Office, 1963). See also Fred Sondern, *Brotherhood of Evil, the Mafia* (New York: Farrar, Straus and Cudahy, 1959).

[10] Miriam Ottenberg, *The Federal Investigators* (Englewood Cliffs, New Jersey: Prentice Hall, 1962).

Malachi L. Harney served as a Treasury Agent for 35 years, 16 of which as Assistant to the U.S. Commissioner of Narcotics. Following that, he was Assistant to the Secretary of the Treasury for law enforcement for 4 years. Mr. Harney is the author of numerous articles on narcotics and law enforcement and of two text books, *The Informer in Law Enforcement* (Springfield, Ill.: C. C. Thomas, 1960) and *The Narcotic Officer's Note Book* (also published by C. C. Thomas, 1961).

In the controversy over surveillance devices, according to this specialist, "The real issue is whether the needs of law enforcement justify a good deal of relatively uncontrolled wiretapping."

Wiretapping and Eavesdropping: Pros and Cons

By Herman Schwartz
Professor of Law, School of Law, State University of New York at Buffalo

Once upon a time a man could retire into his home, free from prying eyes and ears, with distance between himself and his neighbors. That day is gone. Parabolic microphones, wiretaps, bugs, hovering cameras, apartment house living—all these have combined to make it almost impossible for a man to get away from a determined spy or eavesdropper. The right of privacy, cherished by free men and protected by the common law and by our Constitution, now requires special legislation and extraordinary scientific devices for its preservation.

Invasions of privacy result from the pressures of urban life and of advancing technology, from concern about a growing crime problem and from fear of foreign enemies. The issue thus posed is the perennial problem of the free society: how to balance liberty against security, how to achieve the optimal amount of each without excessively sacrificing the other. The answer depends not only on facts, but also on values—some people cherish privacy more than others while some people think our police are already handcuffed excessively. Although an exploration of the problem can do little to affect such bedrock attitudes, it can bring to light some of the realities and ramifications which must be faced.

Before turning to the issues, a few preliminary matters can be resolved quickly. First, almost no one believes that private wiretapping or eavesdropping is to be tolerated. The controversy relates exclusively to wiretapping and eavesdropping for purposes of law enforcement. Second, it is agreed by almost everyone that even if law enforcement wiretapping is permitted, it cannot be left completely in the hands of the law enforcement officers—with one notable exception to be discussed below—but must be strictly controlled by the courts. Third, distinctions must be drawn between wiretapping and eavesdropping by state officers, and the same practices by federal officers. The ultimate conclusion may be the same in both instances, but different considerations are relevant and must be kept in mind.

The right to privacy is deeply imbedded in American history; unfortunately, invasions of privacy are even more deeply imbedded. As early as the sixteenth century, the power to search and seize indiscriminately was used to stamp out seditious libel and writings "contrary to the form of any statute, act or proclamation made or to be made."

Later, in the American colonies, Parliament granted colonial revenue officers complete discretion to search in suspected places for smuggled goods by means of writs of assistance. The struggle against these writs was described by John Adams as "the first act of

opposition to the arbitrary claims of Great Britain." Revulsion against general warrants and writs of assistance led the Founding Fathers to include in the Fourth Amendment to the Constitution this express ban on general warrants:

> no warrants shall issue, but upon probable cause . . . and particularly describing the place to be searched and the person or things to be seized.

In the early years after the Revolution, Americans guarded their privacy closely. Professor Alan Westin, director of one of the most thorough studies ever made on the right of privacy and the dangers it faces today, has stressed the historical tie in early America between freedom of speech and the right to privacy.[1] This period of protection was short-lived, however, and so far American law has been unable to cope satisfactorily with the problem.

The modern dilemma started in 1928 when, in the *Olmstead* case,[2] a 5–4 majority of the Supreme Court held that wiretapping was not prohibited by the Fourth Amendment because, among other things: (1) the Fourth Amendment protected only tangible things and not verbal utterances; and (2) the amendment could not be violated where the building itself was not physically penetrated. This rigidly unrealistic approach, which would have made protection of the right to privacy impossible in today's world, was sharply criticized when the case was decided,[3] and it is clear that time and wisdom were more on the side of dissenting Justice Louis D. Brandeis, who wrote:

> time works changes, brings into existence new conditions and purposes. . . . The progress of science in furnishing the Government with means of espionage is not likely to stop with wiretapping. Ways may some day be developed by which the Government, without removing papers from secret drawers, can reproduce them in court. . . . Can it be that the Constitution affords no protection against such invasions of privacy?

Unfortunately, until now, the Supreme Court has allowed the answer to Mr. Justice Brandeis' question to remain "Yes"—the Constitution affords no protection against eavesdropping which does not penetrate the physical enclosure and almost none at all against wiretapping. Despite almost unanimous criticism, this aspect of *Olmstead* has not been overruled to date (although it is now clear that private verbal utterances are protected).

This does not mean, however, that wiretapping or eavesdropping have remained legally unrestricted. In 1934, Congress enacted the Federal Communications Act, section 605 of which prohibited the interception and divulgence of any wire or radio communication or the use of any such communication. This was construed by the Supreme Court in 1937 to prohibit wiretapping and to exclude from federal trials any evidence obtained through the use of a wiretap on any phone either directly or indirectly. For a while it looked as if significant federal restrictions would be imposed.

These hopes were short-lived. A few years later, under wartime pressures, the Supreme Court began to show a more permissive attitude toward wiretapping and other forms of electronic eavesdropping. Unwilling to overrule *Olmstead*, the Court held that a detectaphone placed *against* (but not into or through a wall) did not come within the protection of the Fourth Amendment, thus eliminating all constitutional regulation of such a practice. In 1952, the Court further held that evidence obtained by state wiretapping could be admitted in a state court, regardless of the illegality of such wiretapping.[4]

---

[1] For a thorough analysis of the interests involved and the issues raised, see Alan Westin, "Science, Privacy and Freedom: Issues and Proposals for the 1970's," Parts I, II, *Columbia Law* Review, vol. 66 (1966), pp. 1003, 1205.

[2] *Olmstead v. United States,* 277 U. S. 438 (1928).

[3] The story of the Olmstead case is told in Walter F. Murphy, *Wiretapping on Trial: A Case Study in the Judicial Process* (New York: Random House, 1965). The book, available in paperback, contains a good summary of the law and the issues in general while concentrating on *Olmstead*.

[4] This decision was based upon an analogy with the then controlling decision of *Wolf v. Colorado,* 338 U. S. 25 (1949), which held that state courts could consider evidence seized by state officials even though such seizure was unconstitutional. Although *Wolf* has been overruled (*Mapp v. Ohio,* 367 U. S. 643, 1961), this overruling has not been extended to wiretapping.

And in the 1957 *Rathbun* decision, the Supreme Court further declared that one party to a telephone conversation could validily authorize a detective to listen in on an extension phone. In addition, the federal Department of Justice has argued that under the statute, it is only illegal to intercept *and* divulge, not to intercept alone, and that so long as it does not use wiretap evidence in court, it does not "divulge."

The department's position and these Supreme Court rulings have resulted in an almost complete nullification of the prohibitions of section 605, at least insofar as wiretapping by law enforcement officials is concerned. Many state and local officials have continued to tap to this day, with complete impunity. Indeed, despite the clear prohibition of section 605, New York and other states have enacted statutes purporting to authorize law enforcement wiretapping and the use of the evidence so obtained. Federal officials have engaged in widespread electronic eavesdropping, even where such activities are clearly and flagrantly illegal.[5]

In 1961, however, the tide seemed to turn again. The Supreme Court held that the introduction of a spike microphone into a wall was sufficient to comply with the physical penetration requirement of *Olmstead,* even though in one case the penetration was no greater than the length of a thumbtack and, in the other, less than an inch.[6] In 1967, the Court agreed to pass on New York State's eavesdropping statute. The revelations of widespread federal legal and illegal electronic eavesdropping caused the Department of Justice to drop several cases where there was clear and flagrant illegal eavesdropping. And in February, 1967, President Lyndon B. Johnson called for legislation outlawing all wiretapping and eavesdropping except in national security cases, and even there under narrowly restricted circumstances. Shortly thereafter, legislation to effectuate the President's proposal was introduced by Senator Edward V. Long of Missouri, whose subcommittee had exposed much of the illegal federal wiretapping and eavesdropping.[7]

Today, the legal situation is in complete chaos. There is a federal law on the books banning all wiretapping, but it is ignored openly by the states. Eavesdropping which involves even a trivial physical penetration is forbidden by the Fourth Amendment, but if there is no such penetration, there is no constitutional protection, no matter how gross or great the invasion of privacy.

WIRETAPPING AND ELECTRONIC EAVESDROPPING: CON

The right to privacy is indeed the most comprehensive of all rights. A society which cherishes liberty and human dignity cannot do without it; a society which seeks to suppress freedom cannot tolerate it.

Wiretapping and electronic eavesdropping deeply endanger privacy. The mere possibility that someone may be eavesdropping on a conversation with one's wife or lawyer or business associate will discourage full and open discourse.[8] Indeed, government officials who are in office for a period of time

[5] The most thorough disclosure of the Internal Revenue Service and other governmental agencies' eavesdropping practices appears in Hearings before the Senate Administrative Practices and Procedures Subcommittee on Invasions of Privacy, Parts 1–6 (1965–1966); *The Wall Street Journal* of March 6, 1967, carried a good summary of the revelations of the FBI's eavesdropping activities. A great many of the arguments for and against wiretapping appear in the recent congressional hearings on wiretapping in 1961 and 1962 before the Senate Constitutional Rights Subcommittee (1961) and Senate Judiciary Committee (1962).

[6] See *Clinton v. Virginia,* 377 U. S. 158 (1964); *Silverman v. United States,* 365 U. S. 505 (1961).

[7] S. 928, 90th Cong., 1st Sess. (1967). At the same time, Senator John McClellan introduced a bill which permits wiretapping by federal and state officers under a court order system, except in national security cases, where presidential authorization can dispense with a court order. S. 675, 90th Cong., 1st Sess. (1967); Senator James O. Eastland has also introduced a bill to allow federal officers to wiretap. S. 634, 90th Cong., 1st Sess. (1967).

[8] This was ironically demonstrated by the United States Attorney General's office in Washington, D.C. in 1963, when a hidden microphone was found in a room in the Mayflower Hotel. Shortly thereafter it was reported in the *Washington Post* that "the United States Attorney General's office which is investigating the mysterious Mayflower 'bugging' case has had some quiet checks made of its own telephone lines against electronic eavesdropping. . . . The security drive has spread to almost everyone connected with the Mayflower case. Lawyers and private detectives in the case have had their telephones checked or have checked them personally in search of tapping devices."

can build up a substantial body of information on other public officials and representatives, which can seriously impair the working of representative democracy.[9]

Moreover, even though the Supreme Court has held until now that citizens are not protected against wiretapping and non-physical-entry eavesdropping by the Fourth Amendment, this aspect of these rulings is acceptable to no one. Part of the reason the Court so held, however, is that wiretapping and electronic eavesdropping cannot easily be prohibited by that amendment. The founders of our nation established the protections of the Fourth Amendment because they had seen their homes subjected to unlimited invasions and searches and they wanted to ensure that such unlimited searches and general warrants would never be repeated. Government officials were therefore to be allowed only specific warrants, particularly describing, in the words of the Fourth Amendment, the "place to be searched" and the "thing to be seized."

Wiretapping and electronic eavesdropping cannot, however, be so limited. Any authorization for such practices would necessarily be general, rather than covered by a specific warrant limited to specific objects and places, for it would necessarily permit a general exploratory search for evidence in aid of prosecution. This is because such devices inevitably pick up all the conversations on the wire tapped or room scrutinized. Thus, not only is the privacy of the telephone user invaded with respect to those calls relating to the offense for which the tap is installed, but (1) *all his other calls* are overheard, no matter how irrelevant, intimate or otherwise privileged—such as conversations with his lawyer, or doctor—and thus all persons who respond to his calls have their conversations overheard; (2) *all other persons who use his telephone* are overheard, whether they be family, business associates or visitors; and (3) *all persons who call him,* his family, his business, and those temporarily at his home are overheard. Thus, in the course of tapping a single telephone a police agent recorded conversations involving, *at the other end,* the Julliard School of Music, the Brooklyn Law School, Consolidated Radio Artists, Western Union, the Mercantile National Bank, several restaurants, a drug store, a garage, the Prudential Insurance Company, a health club, the Medical Bureau to Aid Spanish Democracy, dentists, brokers, engineers and a New York police station.[10]

Electronic eavesdropping is even more penetrating and indiscriminate. In the 1961 *Silverman* case, a spike microphone was driven into a wall until it contacted the plumbing system and made the system into a giant and pervasive listening device. In another case, a microphone was placed in a bedroom. Thus, any assumption that wiretapping and eavesdropping affect only criminals and criminal activities is totally unwarranted. Indeed, there are indications that *friends* of a suspect may also have their phones tapped in hopes that he may call them.

Wiretapping's broad sweep is even more apparent where public telephones are tapped. Of 3,588 telephones tapped in 1953–1954 by New York police, 1,617, almost half, were public telephones.[11] The same holds true for taps on hotel switchboards, large companies, law firms. It is inevitable that in these cases, only an infinitesimal number of the intercepted calls are made by the suspect or by anyone even remotely connected with him; yet the privacy of numerous other callers is invaded, many of whom may have resorted to a public telephone precisely in order to obtain a privacy not obtainable at their homes or businesses.

The arguments against state wiretapping and eavesdropping authority are even stronger. In the first place, telephone communication is frequently interstate; permitting each state to decide for itself whether to

[9] For reports of such tapping, see William J. Fairfield and Charles Clift, "The Wiretappers," *The Reporter,* December 23, 1952, pp. 19–22, and the recent hearings before the Senate Administrative Practices and Procedures Subcommittee, February, 1965.

[10] Westin, "The Wiretapping Problem," *Columbia Law Review,* vol. 52 (1952), pp. 165, 188 n. 112 (emphasis added).

[11] Note, "Wiretapping in New York," *N.Y.U. Law Review,* vol. 31 (1956), pp. 197, 210 n. 96.

authorize its law enforcement officers to wiretap will inevitably result in wiretapping the telephone conversations of people who reside in states where law enforcement officers may not wiretap. Thus, if someone in the District of Columbia, Illinois, Pennsylvania, California or Michigan is called by someone or makes a call to someone in New York or Massachusetts, and the latter's telephone is being tapped, the privacy of the former will be invaded even though he did nothing but place or answer a telephone call, and this no matter how irrelevant the conversation may be to the purpose of the tap.

Furthermore, the record is full of abuses of the right to wiretap by state and local officials. Most bills authorizing state wiretapping set either no limit or the broadest of limits on the crimes for which a tap may be imposed.

Moreover, the legitimation of wiretapping will inevitably produce an increase in the number of states where wiretapping is used. At present, most states prohibit wiretapping for law enforcement and other purposes. Testimony before the United States Senate Judiciary Committee in 1962 indicated, however, that if the bill passed, wiretapping authority would immediately be sought in other states, such as Pennsylvania, Florida and Connecticut. The *reductio ad absurdum* was reached when a district attorney from Iowa testified that although there was no real problem of organized crime in his state, wiretapping "would be a valuable tool in Iowa to help us in solving some of the crimes that we have."

ARGUMENTS FOR WIRETAPPING

The arguments favoring wiretapping turn essentially on a few propositions: 1. wiretapping is necessary to fight organized crime, particularly gambling, which is the lifeblood of organized crime; 2. In recognition of the dangers to privacy, wiretapping is used very sparingly; 3. There are no abuses to speak of, especially under a system of strict judicial control such as we have for more conventional searches and seizures.

Interestingly enough, there have been few statements defending the use of electronic eavesdropping.

District Attorney Frank S. Hogan of New York, certain other prosecutors, Chief Judge J. Edward Lumbard of the United States Court of Appeals for the Second Circuit, and others have long contended that wiretapping is indispensable to fighting organized crime. District Attorney Hogan has named many racketeers and gangsters who, according to him, could not have been brought to justice without wiretapping, and Judge Lumbard has declared:

> In New York's prosecutions against organized crime, commencing in 1935 with the Special Rackets Investigation under Thomas E. Dewey and continuing under District Attorney Frank S. Hogan, the single most valuable weapon has been electronic surveillance. And the President's Commission [on Law Enforcement and Administration of Justice] notes that "Only in New York have law enforcement officials achieved some level of continuous success in bringing prosecutions against organized crime."[12]

The need for wiretapping is based in part on the nature of the crimes involved. The leaders of organized crime do not dirty their own hands with public acts of criminality. Instead, they use telephones and other modern scientific devices to plot and direct crime. Moreover, gambling is the lifeblood of organized crime and it can be fought effectively only by wiretapping. And as to other crimes like bribery, extortion and the like, wiretapping is equally essential. As examples, District Attorney Hogan has given the following:

> . . . state wiretapping has been the only means available, in many instances, to uncover major larcenies and frauds, in which the telephone served as the instrument of the crime. Wiretaps were used by my office in successfully prosecuting a half-million dollar stolen bond ring led by one Irving Mischel, who acted as broker for burglars specializing in stolen securities. His system of marketing these securities was devious and complex. The telephone was an important instrument in his operations. He operated with forgers and other underworld characters, including Irving Nitzberg, an alumnus of Murder, Inc.

[12] Testimony before Senate Subcommittee on Criminal Laws and Procedures, March, 1967.

A wiretap on Mischel's home phone was the prime factor in bringing about his indictment, conviction, and a ten to twenty year prison sentence. In addition, Nitzberg and eight others were arrested and indicted. All pleaded guilty to charges of grand larceny and forgery.

Wiretap evidence is probably the indispensable weapon in any attempt to deal with fake charity racketeers who operate multiphone boiler rooms, so-called, from which solicitations of funds bring in fantastic amounts from the gullible public. We have had a great number of such cases and continue to get them.

* * *

I cite one investigation conducted by my office to demonstrate the value of interception in dealing with mob-controlled gambling.

Wiretaps enabled us to break up an intricate conspiracy involving a ring of crooked policy operators who succeeded in fixing the figures upon which their game was based, so as to reduce their payoffs on winning numbers to a minimum.

This scheme depended to a large extent upon manipulations of daily clearance figures of the Cincinnati Clearing House and upon a network of daily telephone calls between Ohio, New Jersey, and New York. The use of the telephone to further the criminal conspiracy proved to be the gangsters undoing—and they were gangsters, not just gamblers. [13]

National security also appears to be an area where wiretapping is claimed to be important. Thus, even the Right of Privacy bill, which seeks to outlaw most wiretapping and eavesdropping, allows these practices for national security purposes; in 1967 some 38 such taps were said to be in effect. Moreover, such taps have been installed without judicial approval and any attempts to impose such judicial controls have been resisted by all attorneys general, though some state prosecutors who generally favor wiretapping have criticized the exception from judicial control for national security eavesdropping as unnecessary and unwise.[14]

It has been urged further that wiretapping and eavesdropping are simply additional investigative techniques, more effective but no different in kind from more conventional methods like the use of informers, conventional searches and personal eavesdropping, and the like. And, it has been argued, if we allow such methods—and law enforcement purportedly cannot do without them—we should not hesitate to allow more modern and effective devices. But it seems clear that the differences in degree are so great as to be differences in kind.

Despite its alleged utility, however, those who favor its use contended that wiretapping is used quite sparingly. The statistics published by the district attorneys of New York and Kings Counties show an average of about 110 orders per year for the period 1950–1959, with 21 orders in 1964 in Kings County covering 29 phones. The New York City police obtained 124 orders in 1958, 225 in 1959, 451 in 1963 and 671 in 1964.

These figures do not really seem small. The enormous increase in police wiretapping is especially obvious and startling. Thus, at least 335 orders were obtained in New York City in 1959, covering more than 500 telephones, for an order frequently covers more than one telephone. Since one tap catches many, many people per day, especially taps on business and public telephones,—and perhaps 45 to 50 per cent of the telephones tapped are such public or business phones—these orders produced an invasion of the privacy of thousands of people every day.[15]

Moreover, there is ample evidence of much unauthorized police wiretapping throughout the country.[16] Much of this unauthorized

[13] Testimony before Senate Judiciary Committee, 1962. It should be noted that law enforcement officers are not uniform in their praise of wiretapping. Thus, the Attorney General of the United States, Ramsey Clark, has declared that wiretapping is not indispensable. For the views of others see Herman Schwartz, *The Wiretapping Problem Today: A Report by the American Civil Liberties Union* (1965).

[14] See testimony of former Brooklyn District Attorney Edward S. Silver, in 1955 House Judiciary Committee Hearings on Wiretapping, at pp. 97–98.

[15] The statistics and their sources appear in Schwartz, *op. cit. supra* n. 13, at p. 15.

[16] See Samuel Dash, Robert E. Knowlton and Richard F. Schwartz, *The Eavesdroppers* (New Brunswick, N.J.: Rutgers Univ. Press, 1959), pp. 39–73, 122, 151, 168, 217, 247; Fairfield and Clift, "The Wiretappers," *The Reporter,* December 23, 1952 and January 6, 1953; Westin, "Wiretapping: The Quiet Revolution," *Commentary,* May, 1960, pp. 333, 337; Westin, "The Wiretapping Problem," *Columbia Law Review,* vol. 52, pp. 195–96; also Attorney General Robert Kennedy, *Look Magazine,* March 28, 1961. *The Eavesdroppers* is the most thorough study yet made of wiretapping practices in the United States.

eavesdropping is resorted to as surveillance and sampling tapping, on the basis of which an application for an order can be framed if the tap turns up useful information. Indeed, the very vigor of the claims for the indispensability of wiretapping by New York District Attorneys Hogan, Silver and O'Connor makes it difficult to understand their claims of infrequent use. At one point, District Attorney Hogan called wiretapping "the single most important weapon in the fight against organized crime" and declared that without it "law enforcement in New York is virtually crippled in the area of organized crime." He then submitted a table showing use in only 20 to 22 investigations a year for 10 years, even though his office handled some 34,000 matters a year during that period. It is thus easy to understand New York Congressman Emanuel Celler's trenchant comment:

> If you have a method which is so easy . . . I cannot conceive how in ordinary circumstances the police wouldn't avail themselves of that very facile method of detecting crime.

On the other hand, it is argued that the availability of legal wiretapping will cut down the amount of illegal wiretapping and put it under judicial control. Moreover, a clear legitimation of the law enforcer's right to tap will make it easier for him to go after the illegal tapper. And, it is urged, there are no complaints in New York of either abuse of wiretapping authority or of the conviction of an innocent person because of wiretapping.

It is urged also that judicial controls are adequate, although an extensive two-year study concluded that:

> the experience of the statutes throughout the country providing for judicial supervision has been very bad. Law enforcement officers have had no difficulty obtaining a court order when they wanted it. Judges who are "tough" are just bypassed. In addition, police officers have shown . . . impatience with the . . . system and . . . engaged in wiretapping without a court order. . . .[17]

The law enforcement officers have argued, however, that since the conventional search is adequately controlled by a court order system, wiretapping and eavesdropping can also be adequately controlled. This analogy to conventional searches seems dubious, however. In the first place, a search warrant can limit a conventional search to a specific place or object. Usually, other evidence that is seen, no matter how relevant, cannot be seized, unless its possession constitutes a crime or it is closely related to the items specified. But a wiretap cannot possibly be so limited, for there is no way of limiting the person, place or conversation to be seized, even though the particular telephone is specified.

Moreover, the greatest spur to careful judicial control of searches is the virtual certainty that if anything useful turns up, the propriety of the order will be challenged; a conventional search cannot be kept secret. But a wiretap can remain secret and thus the propriety of the order is likely never to be tested, for it is usually almost impossible for a defendant to find out if he was subjected to a tap. This inevitably makes and has made for lax judicial scrutiny of the applications, especially where judges are overworked and otherwise unable to make a close study.

The real issue is whether the needs of law enforcement justify a good deal of relatively uncontrolled wiretapping. This problem will not easily be resolved. The present bills in Congress seek such a resolution in a variety of ways: the administration proposal seeks to bar most wiretapping and eavesdropping and the manufacture and sale of equipment to be used primarily for such uses. Other bills permit varying amounts of wiretapping and eavesdropping under varying degrees of judicial control. It is highly unlikely, however, that any of these bills will be enacted; so, once again, we will have to rely on judicial solutions. Here, there are some hopeful signs that in the future the courts will face the problems more realistically.

Herman Schwartz is the author of *The Wiretapping Problem Today,* a 1965 American Civil Liberties Union report, and other publications on criminal law and civil rights.

[17] Testimony of Samuel Dash before the 1962 Senate Judiciary Committee Hearings on the Attorney General's Program on Wiretapping, at pp. 104–05.

Evaluating the pros and cons of federal regulation of firearms, this writer sums up the controversy: "One side says that the federal government should tighten regulations on the gun traffic, and that registration of such weapons is perfectly reasonable—that it is, in fact, in a class with the registration of automobiles. The opponents contend that if there is to be any further legislation . . . it should address itself to the problem of misuse."

Federal Control of Firearms: Is It Necessary?

ALLAN S. NANES
Legislative Reference Service, Library of Congress

ONE HOT SUMMER'S DAY in 1966 Charles Whitman, an architectural student at the University of Texas, climbed to the top of the tower that overlooks the campus. He had in his possession three rifles, a sawed-off shotgun, two pistols and a hunting knife. Having already killed his wife and mother, he shot two women and a child at the top of the tower. Then, turning his attention to the people on the ground, he began a terrible fusillade that did not stop until he had shot 40 more, killing 10 and wounding 30, before the police put an end to the slaughter by shooting him to death.

Less than six months later, in New York, Gustave D. Williams was released from a state mental hospital. A few weeks later he walked into a gun store on a Saturday afternoon and purchased a rifle and ten rounds of ammunition. Less than an hour later, in New York's Bryant Park, Williams jumped up from a bench and shot dead two men he had never seen before.

On November 22, 1963, Lee Harvey Oswald, presumed killer of President John Kennedy, shot him with a rifle he had ordered through the mail. Two days later Oswald himself was done to death by Jack Ruby—shot with the pistol that Ruby habitually carried.

In terms of its world impact, the shooting of President Kennedy was probably the most spectacular crime of this troubled epoch. For a short time, voices were raised for tighter control of guns. President Lyndon Johnson called for a gun control law. However, the clamor soon died and no legislation was enacted. The Whitman crime, however, because of the mass killings involved, aroused a strong popular response. President Johnson again pointed to the need for laws to control the sale and distribution of firearms, and it seemed that after years of delay Congress would finally pass new legislation to accomplish that purpose. Yet despite the indignation and horror aroused by the crimes cited, and by many more which could be mentioned, such legislation, as of the time of this writing, has not been passed. Indeed, opposition to it has been active, vocal and vigorous.

Opposition to what seems to many an obvious need evokes a number of theoretical explanations. The American frontier heritage has been widely invoked in this connection. The frontier is said to have imparted a sense of independence, and the habit of self-reliance, to the individual American. The frontiersman relied on himself, in the last analysis, for his own protection—hence the unique place of the gun in his affections. This interpretation has been linked to the Second Amendment to the Constitution, "the right to

bear arms." Constitutional sanction and patriotic tradition have thus combined to give a special, almost sancrosanct, character to the uncontrolled right to purchase and own guns. So went one theory. The frontier heritage has been similarly invoked to develop a theory that Americans are prone to violence. Our society has not yet developed the settled character of older civilizations. It is still overlaid with the mystique of the frontier, where the social fabric was weak, where arguments, at least in popular mythology, were often settled by resort to the gun, and where justice was administered by self-appointed vigilantes. It is argued that this tradition still pervades our society, again with the result that there is an emotional revulsion to the idea of tighter control of firearms.

If this theory seems imbued with romantic tradition, there is yet another explanation, based on the more recent lawlessness of the prohibition years. In the gangster era, there were frequent underworld killings, most of which were never solved. Police corruption and newspaper glorification of many gangsters were hardly calculated to inculcate popular respect for the law. Without such respect, the inhibitions against possession and use of a gun more easily give way. The plethora of crime and violence on television can always be adduced as influencing to lawlessness. A theory based on the tensions of our society—in some ways a more frightening one—was advanced in the columns of the *Economist* (London).

> In the Watts rebellion in Los Angeles . . . the white population within reach of the disorders rushed to arm itself [as did a number of Negroes, not necessarily from aggressive motives] and it seems not unlikely that the constant stream of reports of racial violence stiffens people against any attempt to restrict their right to a weapon.[1]

One may broaden this hypothesis and argue that the constant increase in crime has had the same effect. Psychiatric theories have stressed the gun as a symbol of virility, and emphasize the reassurance its possession gives the insecure.[2]

EXISTING LAWS

Whatever validity there may be in any of these explanations, the fact remains that there is stubborn resistance to proposed federal legislation to strengthen the control of firearms. The operative word here is "strengthen" for, contrary to what many seem to think, relevant federal legislation is already on the statute books. First, there is the National Firearms Act of 1934, which applies to machine guns, short-barreled and sawed-off rifles and shotguns, mufflers and silencers, but not to pistols. Under this act, those owning weapons or devices of the types named must register them with the Treasury Department. The act also imposes an annual tax on firearms manufacturers, importers and dealers. The transfer of registered weapons or equipment is taxed in amounts ranging from $5 to $200.

Next, there is the Federal Firearms Act of 1938, which requires the licensing of all manufacturers and dealers in firearms who use the facilities of interstate or foreign commerce. The law prohibits the knowing transportation of firearms in interstate commerce to any person who has been convicted of a felony, or who is a fugitive from justice, or their receipt by any such person. Under this law, most kinds of firearms manufactured in this country, or imported from abroad, must bear serial numbers. Stolen firearms, or those with mutilated serial numbers, may not be shipped interstate. Licensed manufacturers and dealers may not transport firearms into individual states in violation of state laws requiring a permit to purchase firearms.

Finally, there is a provision of the Mutual Security Act of 1954 which authorizes the President to regulate the import and export of firearms. Administration of this provision is in the hands of the Department of State. Although this provision was written with reference to the international problems of the United States and the question of military assistance, it is applicable to the domestic problem of firearms control. Furthermore

[1] *The Economist* (London), August 6, 1966, p. 541.

[2] See Carl Bakal, *The Right to Bear Arms* (New York: McGraw-Hill, 1966), chapter 5, "The Firearms Mystique."

the Defense Department has moved administratively and suspended all disposal of surplus firearms through commercial and private channels. What it will do with such arms in the future is not yet clear.[3]

There are also a great many state laws designed to regulate the traffic in firearms. In 25 states, anyone who sells handguns at retail must have a license to do so. In eight states some sort of permit to purchase a handgun is required. Eleven states require a waiting period between the purchase and delivery of a handgun, one requires a license to possess a handgun, 29 require a license to carry a handgun. In 19 states the carrying of a concealed handgun is prohibited, and in 18 states it is an offense to carry a handgun in a vehicle without a license for the gun. Twenty-two states prohibit the carrying of a loaded firearm in a vehicle and, finally, four states require that owners register their firearms.

New York State, with its Sullivan law, seems to be in a class by itself. The Sullivan law prohibits anyone from keeping a pistol or revolver in his home or place of business without a license. Nor can a pistol or revolver be purchased until the would-be purchaser has obtained a license either to possess or carry a weapon of this type. The same prohibitions do not apply to rifles and shotguns, although New York law prohibits their being carried in an automobile or in a public place when loaded. The rigorous procedures under the Sullivan law make it difficult to obtain a gun unless you have some specific purpose in owning one, such as the protection of premises and property, and the protection of valuables while they are in transit. Although permits will be issued for guns purchased for target shooting, a certificate of membership in a gun club must be produced and the gun may be carried only to and from a range. People who may want a gun for any other purpose will find it almost impossible to get a license.

The Sullivan law does not cover shotguns and rifles, but it bans weapons such as machine guns, sawed-off shotguns and switchblade knives. Furthermore, it has strong teeth. The possession of an unlicensed weapon, even an unloaded one, can bring its possessor up to a year in jail, provided he is a first offender; a second offense can bring up to seven years in jail. The use of an unlicensed gun in the commission of a crime can bring an extra ten-year penalty merely for the possession of the gun.

According to Carl Bakal, in his book, *The Right to Bear Arms,* the Sullivan law has had "some effect on public safety,"[4] in the sense that New York's homicide rate is somewhat below that of the country at large. Yet this conclusion has been disputed, and the writer has seen a statement to the effect that, despite the Sullivan law, New York has a higher per capita homicide rate than 29 other states.[5] Of course, New York's tight regulations do not deter the purchase of weapons in surrounding states, nor do they cover the purchase of shotguns or rifles, either over the counter or through the mail.

Gaps such as these are generally blamed for the ineffectiveness of present statutes. Existing laws are obviously not uniform. Although the federal government can ban the shipment of firearms into states that require a permit for their purchase, only eight states have such permit laws. The federal prohibition against the transportation of firearms to felons and fugitives, or their receipt by the latter, covers only interstate shipment. Once the guns have arrived at a state with loose regulation, "practically anyone—the convicted criminal, the mental incompetent, or the habitual drunkard—can purchase firearms."[6] As has been pointed out with reference to the Sullivan law, strict controls in one state or city are simply nullified by the purchase of guns in nearby jurisdictions with less stringent requirements. In only four states do the police have a method of determining the ownership and location of firearms. Guns are not registered throughout the nation, the way automobiles are. Finally, there are only limited controls on the import of firearms from

[3] See *The Challenge of Crime in a Free Society,* A Report by the President's Commission on Law Enforcement and Administration of Justice. (Washington: U.S.G.P.O., 1967), p. 239.
[4] Bakal, *op. cit.,* p. 158.
[5] Letter to *Look* Magazine, March 7, 1967.
[6] President's Crime Commission Report, p. 240.

abroad at a time when there is a surplus of weapons available.

PROPOSED LEGISLATION

In the 88th and 89th Congresses, Senator Thomas Dodd of Connecticut introduced bills to tighten up federal firearms controls, and identical bills were introduced in the House. As reported from the Senate's Subcommittee on Juvenile Delinquency to the full Judiciary Committee in 1966, the bill would have: banned the interstate mail order of concealable firearms, that is pistols and revolvers, to individuals; regulated the interstate sale of sporting rifles and shotguns through an affidavit requirement; restricted the importation into this country of military surplus firearms and certain other foreign-made firearms; barred the sale of pistols and revolvers to persons under 21, and of rifles and shotguns to persons under 18; banned the over-the-counter sale of concealable firearms to persons not residents of the state in which the licensee conducts his business; placed special regulations on the acquisition of "destructive devices" (such as explosives and incendiaries). The measure also increased the cost of a firearms dealer's federal license.

The Dodd bill, as it was actually presented to the full Judiciary Committee, was an administration measure, and as such was changed in some particulars, but not in essentials, from the measure originally introduced by the senator. However, when opposition to the administration bill developed while the full committee hearings were in progress, its proponents decided to support a compromise bill introduced by Senator R. L. Hruska of Nebraska, in order to get a floor vote. The compromise measure, which exempted all sales of shotguns, rifles, or "heavy weapons," from the proposed new regulations, was approved by the full Judiciary Committee by a 9 to 4 vote. But no floor vote was actually taken. New bills, which are substantially similar to the administration bills of a year ago, have been submitted by Senator Dodd and Representative Emanuel Celler of New York to the 90th Congress.

OPPOSING VIEWPOINTS

The very fact that the administration measure was shelved in order to get floor consideration of a gun control bill in the Senate is indicative of the lively controversy in which this matter is enveloped. For there is disagreement not only over the broad substantive issue of further federal legislation regulating firearms, but also with respect to the best method of dealing with the problem if a decision is made to proceed with such legislation. Should there be further regulation and, if so, what should be its nature?

Those who argue in favor of increased regulation see the problem as one that lends itself primarily to a federal solution. Only the federal government through its power over interstate commerce, can reach the mail-order traffic in guns. It also possesses taxing power which can be applied to the problem, and which was the original basis for the Federal Firearms Act of 1934. Proponents of federal controls also assert that the Second Amendment, permitting the right to keep and bear arms, is not an absolute. It is as much subject to control as the right to free speech, which is not so absolute as to permit one freely to shout fire in a crowded theatre, perhaps touching off a panic thereby, when no such fire is present.

The President's Commission on Law Enforcement quotes the Second Amendment in its entirety: "A well-regulated Militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed." It proceeds to state that the Supreme Court and lower courts have consistently interpreted this amendment to prevent federal interference with a state militia, and not with regard to an individual's right to possess firearms. It then dismisses as having no validity whatever the contention that the Second Amendment prohibits the regulation of firearms. The commission also adds that licensing and registration of guns would merely constitute an inconvenience, and would not penalize the law-abiding gun owner.

For the hundreds of thousands and even millions of hunters, gun collectors and others

who oppose the proposed legislation, the suggested regulations would miss the point. The availability of guns is not the issue, they say, but their misuse. Many opponents would accept legislation to prevent sale of mail-order guns to persons with known criminal records. In addition, they might readily admit that there should be laws against the sale of machine guns, and other combat or gangster-type weapons, since the legitimate need for them is negligible. Furthermore, the opponents of the proposed legislation, like its proponents, do not wish to see guns fall into the hands of political extremists. Many, and perhaps most of them, would favor the regulation of the sale of handguns or concealable firearms in a different manner than regulations on rifles or shotguns. A point made in this connection is that pistols and other hand weapons are more suited to criminal purposes than are rifles.

But opponents of increased federal controls are disturbed by a belief that further regulation would amount to a form of class legislation. You are taking the sportsman, they say, the hunter and the gun collector, and condemning him out of hand. There are many who need guns for legitimate purposes: the person who lives in a rural area, for example, and may have to have a gun, and who can only secure it through the mail. Then there are the shopkeepers and other victims of criminals who would find it more difficult to obtain this means of protection. All these groups would be penalized because of the depredations of a small group of lawbreakers.

The basic contention of those opposing further federal regulation arises from a fundamental premise different from that of its proponents, namely, they do not believe that the availability of guns creates the problem. The criminal element would find ways to obtain guns no matter what the regulatory scheme, they argue, although this assertion is inconsistent with a professed willingness to prohibit mail-order sales to persons with a criminal record. Their main point is that it is not the accessibility of guns that leads to crime, but rather the individual's criminal intent. Those bent upon crimes of violence would commit them whether or not guns were readily available. As they see it, the problem is essentially deeper than regulating the mail-order traffic in guns. It is no less than the entire problem of crime itself, which has a multiplicity of causes. Opponents of the Dodd bill believed that their case was strengthened by the fact that the *Uniform Crime Reports* of the FBI do not list the availability of firearms as a factor contributing to the high incidence of crime in the United States.

One other aspect of the Dodd bill disturbed its antagonists. Many of them saw it as providing the base upon which a national system of weapons registration could be erected. Weapons registration, in turn, could be the death knell of the Second Amendment, of the individual's right to keep and bear arms. To many gun enthusiasts, collectors, hunters, members of the National Rifle Association, and so on, this is the ultimate issue. They feel that once tight regulations are clamped on the sale and shipment of firearms the Second Amendment will become a nullity, and the Constitution itself will be violated. Gun registration could be a weapon in the hands of an all-powerful state to disarm potential resistance. The people would be powerless if armed subversives attempted to take over the government.

A segment of the opposition to tighter gun regulation becomes quite emotional on this issue, and shows an occasional tendency to pitch its arguments almost exclusively at this level. For such people the original relationship in the text of the Constitution between the right to bear arms and the establishment of a militia has been eroded, and the right to possess a weapon is clothed with constitutional sanction in and of itself.

Other opponents of the proposed legisla-

(*Continued on page 51*)

Allan S. Nanes is well-known to *Current History* readers. In addition to service with several government agencies, he has taught at Hofstra, Brooklyn and Hunter colleges and at American University.

Massiah v. United States

On May 18, 1964, the United States Supreme Court delivered its opinion in the case of Massiah *v.* United States (*377 U.S. 201*). *Citing the guarantees of the right to counsel under the Sixth Amendment and against compulsory self-incrimination under the Fifth Amendment, the 6 to 3 ruling reversed the conviction of Winston Massiah for narcotics violation. The complete text of the majority opinion and excerpts from the minority dissent follow:*

MR. JUSTICE STEWART delivered the opinion of the Court.

The petitioner was indicted for violating the federal narcotics laws. He retained a lawyer, pleaded not guilty, and was released on bail. While he was free on bail a federal agent succeeded by surreptitious means in listening to incriminating statements made by him. Evidence of these statements was introduced against the petitioner at his trial over his objection. He was convicted, and the Court of Appeals affirmed. We granted certiorari to consider whether, under the circumstances here presented, the prosecution's use at the trial of evidence of the petitioner's own incriminating statements deprived him of any right secured to him under the Federal Constitution.

The petitioner, a merchant seaman, was in 1958 a member of the crew of the S. S. *Santa Maria*. In April of that year federal customs officials in New York received information that he was going to transport a quantity of narcotics aboard that ship from South America to the United States. As a result of this and other information, the agents searched the *Santa Maria* upon its arrival in New York and found in the afterpeak of the vessel five packages containing about three and a half pounds of cocaine. They also learned of circumstances, not here relevant, tending to connect the petitioner with the cocaine. He was arrested, promptly arraigned, and subsequently indicted for possession of narcotics aboard a United States vessel. In July a superseding indictment was returned, charging the petitioner and a man named Colson with the same substantive offense, and in separate counts charging the petitioner, Colson, and others with having conspired to possess narcotics aboard a United States vessel, and to import, conceal, and facilitate the sale of narcotics. The petitioner, who had retained a lawyer, pleaded not guilty and was released on bail, along with Colson.

A few days later, and quite without the petitioner's knowledge, Colson decided to cooperate with the government agents in their continuing investigation of the narcotics activities in which the petitioner, Colson, and others had allegedly been engaged. Colson permitted an agent named Murphy to install a Schmidt radio transmitter under the front seat of Colson's automobile, by means of which Murphy, equipped with an appropriate receiving device, could overhear from some distance away conversations carried on in Colson's car.

On the evening of November 19, 1959, Colson and the petitioner held a lengthy conversation while sitting in Colson's automobile, parked on a New York street. By prearrangement with Colson, and totally unbeknown to the petitioner, the agent Murphy sat in a car parked out of sight down the street and listened over the radio to the entire conversation. The petitioner made several incriminating statements during the course of this conversation. At the petitioner's trial these incriminating statements were brought before the jury through Murphy's testimony, despite the insistent objection of defense

counsel. The jury convicted the petitioner of several related narcotics offenses, and the convictions were affirmed by the Court of Appeals.

The petitioner argues that it was an error of constitutional dimensions to permit the agent Murphy at the trial to testify to the petitioner's incriminating statements which Murphy had overheard under the circumstances disclosed by this record. This argument is based upon two distinct and independent grounds. First, we are told that Murphy's use of the radio equipment violated the petitioner's rights under the Fourth Amendment, and, consequently, that all evidence which Murphy thereby obtained was, under the rule of *Weeks* v. *United States* (232 U. S. 383), inadmissible against the petitioner at the trial. Secondly, it is said that the petitioner's Fifth and Sixth Amendment rights were violated by the use in evidence against him of incriminating statements which government agents had deliberately elicited from him after he had been indicted and in the absence of his retained counsel. Because of the way we dispose of the case, we do not reach the Fourth Amendment issue.

In *Spano* v. *New York* (360 U. S. 315), this Court reversed a state criminal conviction because a confession had been wrongly admitted into evidence against the defendant at his trial. In that case the defendant had already been indicted for first-degree murder at the time he confessed. The Court held that the defendant's conviction could not stand under the Fourteenth Amendment. While the Court's opinion relied upon the totality of the circumstances under which the confession had been obtained, four concurring Justices pointed out that the Constitution required reversal of the conviction upon the sole and specific ground that the confession had been deliberately elicited by the police after the defendant had been indicted, and therefore at a time when he was clearly entitled to a lawyer's help. It was pointed out that under our system of justice the most elemental concepts of due process of law contemplate that an indictment be followed by a trial, "in an orderly courtroom, presided over by a judge, open to the public, and protected by all the procedural safeguards of the law" (360 U. S., at 327, STEWART, J. concurring). It was said that a Constitution which guarantees a defendant the aid of counsel at such a trial could surely vouchsafe no less to an indicted defendant under interrogation by the police in a completely extrajudicial proceeding. Anything less, it was said, might deny a defendant "effective representation by counsel at the only stage when legal aid and advice would help him" (360 U. S., at 326, DOUGLAS, J., concurring).

Ever since this Court's decision in the *Spano* case, the New York courts have unequivocally followed this constitutional rule. "Any secret interrogation of the defendant, from and after the finding of the indictment, without the protection afforded by the presence of counsel, contravenes the basic dictates of fairness in the conduct of criminal cases and the fundamental rights of persons charged with crime" (*People* v. *Waterman,* 9 N. Y. 2d 561, 565, 175 N. E. 2d 445, 448).

This view no more than reflects a constitutional principle established as long ago as *Powell* v. *Alabama* (287 U. S. 45), where the Court noted that ". . . during perhaps the most critical period of the proceedings . . . that is to say, from the time of their arraignment until the beginning of their trial, when consultation, thoroughgoing investigation and preparation [are] vitally important, the defendants . . . [are] as much entitled to such aid [of counsel] during that period as at the trial itself" (*Id.,* at 57). And since the *Spano* decision the same basic constitutional principle has been broadly reaffirmed by this Court. (*Hamilton* v. *Alabama,* 368 U. S. 52; *White* v. *Maryland,* 373 U. S. 59. See *Gideon* v. *Wainwright,* 372 U. S. 335.)

Here we deal not with a state court conviction, but with a federal case, where the specific guarantee of the Sixth Amendment directly applies[1] (*Johnson* v. *Zerbst,* 304 U. S. 458). We hold that the petitioner was

[1] "In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence."

denied the basic protections of that guarantee when there was used against him at his trial evidence of his own incriminating words, which federal agents had deliberately elicited from him after he had been indicted and in the absence of his counsel. It is true that in the *Spano* case the defendant was interrogated in a police station, while here the damaging testimony was elicited from the defendant without his knowledge while he was free on bail. But, as Judge Hays pointed out in his dissent in the Court of Appeals, "if such a rule is to have any efficacy it must apply to indirect and surreptitious interrogations as well as those conducted in the jailhouse. In this case, Massiah was more seriously imposed upon . . . because he did not even know that he was under interrogation by a government agent" (307 F. 2d, at 72–73).

The Solicitor General, in his brief and oral argument, has strenuously contended that the federal law enforcement agents had the right, if not indeed the duty, to continue their investigation of the petitioner and his alleged criminal associates even though the petitioner had been indicted. He points out that the Government was continuing its investigation in order to uncover not only the source of narcotics found on the S. S. *Santa Maria,* but also their intended buyer. He says that the quantity of narcotics involved was such as to suggest that the petitioner was part of a large and well-organized ring, and indeed that the continuing investigation confirmed this suspicion, since it resulted in criminal charges against many defendants. Under these circumstances the Solicitor General concludes that the government agents were completely "justified in making use of Colson's cooperation by having Colson continue his normal associations and by surveilling them."

We may accept and, at least for present purposes, completely approve all that this argument implies, Fourth Amendment problems to one side. We do not question that in this case, as in many cases, it was entirely proper to continue an investigation of the suspected criminal activities of the defendant and his alleged confederates, even though the defendant had already been indicted. All that we hold is that the defendant's own incriminating statements, obtained by federal agents under the circumstances here disclosed, could not constitutionally be used by the prosecution as evidence against *him* at his trial.

WHITE DISSENT (EXCERPTS)

. . . today's rule promises to have wide application well beyond the facts of this case. The reason given for the result here—the admissions were obtained in the absence of counsel—would seem equally pertinent to statements obtained at any time after the right to counsel attaches, whether there has been an indictment or not; to admissions made prior to arraignment, at least where the defendant has counsel or asks for it; to the fruits of admissions improperly obtained under the new rule; to criminal proceedings in state courts; and to defendants long since convicted upon evidence including such admissions. . . .

. . . It is only a sterile syllogism—an unsound one, besides—to say that because Massiah had a right to counsel's aid before and during the trial, his out-of-court conversations and admissions must be excluded if obtained without counsel's consent or presence. . . .

. . . This is . . . a thinly disguised constitutional policy of minimizing or entirely prohibiting the use in evidence of voluntary out-of-court admissions and confessions made by the accused. Carried as far as blind logic may compel some to go, the notion that statements from the mouth of the defendant should not be used in evidence would have a severe and unfortunate impact upon the great bulk of criminal cases.

. . . the Court's newly fashioned exclusionary principle goes far beyond the . . . privilege against self-incrimination, which neither requires nor suggests the barring of voluntary pretrial admissions. . . .

The Court presents no facts, no objective evidence, no reasons to warrant scrapping the voluntary-involuntary test for admissibility in this area. Without such evidence I would retain it in its present form. . . .

BOOK REVIEWS

Readings on Crime: Part I

Abraham, Henry J. *Freedom and the Court.* New York: Oxford University Press, 1967.

Adamic, Louis. *Dynamite: The Story of Class Violence in America.* London: Jonathan Cape Publishers, 1931.

Administrative Office of the United States Courts. *Annual Report of the Director.* Washington, D.C., 1966.

Aichorn, August. *Wayward Youth.* New York: Viking Press, 1935.

American Bar Association. *Law and Courts in the News.* A layman's handbook of court procedures, with a glossary of legal terminology. Chicago: Committee on Public Relations, 1960.

Amir, Menachem. "Forcible Rape," *Federal Probation,* March, 1967.

Anderson, Robert Thomas. "From Mafia to Cosa Nostra," *The American Journal of Sociology,* November, 1965.

Anslinger, Harry J. and William F. Tompkins. *Traffic in Narcotics.* New York: Funk & Wagnalls, 1953.

Bakal, Carl. *The Right to Bear Arms.* New York: McGraw-Hill, 1966.

Barrett, Edward L., Jr., "Criminal Justice: The Problem of Mass Production" in Harry W. Jones, ed., *The Courts, the Public and the Law Explosion.* Englewood Cliffs, N.J.: Prentice-Hall, 1965.

Barry, John Vincent. *Alexander Maconochie of Norfolk Island.* Melbourne: Oxford University Press, 1958.

Beaney, William M. and Alpheus T. Mason. *American Constitutional Law* (3rd ed.). Englewood Cliffs, N.J.: Prentice-Hall, 1964.

————. *Supreme Court in a Free Society.* Englewood Cliffs, N.J.: Prentice-Hall, 1959.

Beattie, R. H. and J. P. Kennedy. "Aggressive Crime," *The Annals* (American Academy of Political and Social Science), March, 1966.

Bedau, Hugo Adam (ed.). *The Death Penalty in America* (rev. ed.). New York: Doubleday Anchor, 1967.

Bell, Daniel. "Crime as an American Way of Life" in *The End of Ideology.* Glencoe, Ill.: The Free Press, 1960.

Bennett, James V. "A Cool Look at 'The Crime Crisis'," *Harper's,* April, 1964.

Blakey, G. Robert. "Organized Crime and Corruption Practices" in *Proceedings, First National Symposium on Law Enforcement Science and Technology.* Chicago: Illinois Institute of Technology, 1967.

Burt, Cyril. *The Young Delinquent* (4th ed.). London: University of London Press, 1945.

Caldwell, Arthur B. "Police Efficiency in Law Enforcement as a Foundation of American Life," *American Bar Association Journal,* February, 1962.

California Prisoners, 1961–1962–1963. A report. Sacramento: California Department of Corrections Research Division, December, 1963.

Capital Punishment. Ottawa: Canadian Ministry of Justice, 1965.

Capote, Truman. *In Cold Blood.* New York: Random House, 1966.

Chicago Crime Commission. *Report on Chicago Crime for 1964.*

Clemmer, Donald. *The Prison Community.* New York: Holt, Rinehart & Winston, 1960.

Conrad, John P. *Crime and Its Correction.* Berkeley: University of California Press, 1965.

————. "The Social Worker in Today's Correctional Agency," *National Parole and Probation Association Journal,* July, 1956.

————. "Violence in Prison," *The Annals,* March, 1966.

Cressy, Donald. "Organized Crime as a Social System," in *Proceedings, First National Symposium on Law Enforcement Science and Technology.* Chicago: Illinois Institute of Technology, 1967.

Criminal Law and Procedures. Hearings before Subcommittee on Criminal Laws and Procedures of U.S. Senate Committee on the Judiciary, 89th Congress, 2nd Session (1966).

Cummings, Homer and Carl McFarland. *The History of Justice and the Federal Executive.* New York: Macmillan, 1937.

Dash, Samuel, Robert E. Knowlton and Richard F. Schwartz. *The Eavesdroppers.* New Brunswick, N.J.: Rutgers University Press, 1959.

Day, Frank D. "State Police and Highway Patrols," in *The Book of the States 1964–1965.* Chicago: Council of State Governments, annual.

"Department of Justice" in *United States Government Organization Manual 1966–1967.* Washington, D.C.: Government Printing Office, annual.

Dickens, Charles. *American Notes.* New York: Scribner, 1898.

Dole, Vincent and Marie Nyswander. "Rehabilitation of Heroin Addicts After Blockade with Methadone," *New York State Journal of Medicine,* Number 66, 1966.

Eastland, Senator James O. *Bill to permit federal officers to wiretap.* S. 634, 90th Congress, 1st Session (1967).

Elias, Albert, Lloyd McCorkle and F. Lovell Bixby, *The Highfields Story.* New York: Henry Holt & Co., 1958.

Elliott, Mabel A. "Crime and the Frontier Mores," *American Sociological Review,* April, 1944.

England, Ralph W., Jr. *Prison Labor.* New York: United Nations, 1955.

Erikson, Erik. *Childhood and Society.* New York: W. W. Norton, 1950.

Fairfield, William J. and Charles Clift. "The Wiretappers," *The Reporter,* December 23, 1952 and January 6, 1953.

Federal Bureau of Investigation. *Uniform Crime Reports.* Washington, D.C., annual.

Federal Role in Urban Affairs. Hearings before Subcommittee on Executive Reorganization of U.S. Senate Committee on Government Operations, 89th Congress, 2nd Session (1966).

Fellman, David. *The Defendant's Rights.* New York: Rinehart & Co., 1953.

Friendly, Alfred and R. L. Goldfarb. *Crime and Publicity.* New York: 20th Century Fund, 1967.

Fulton, Charles. "Narcotics" in *Encylopedia of Chemistry—Supplement.* New York: Reinhold, 1957.

Gambling and Organized Crime. Hearings before Permanent Subcommittee of U.S. Senate Committee on Government Operations, 87th Congress, 2nd Session (1962).

Geis, Gilbert. *Longest Way Home.* Detroit: Wayne State University Press, 1964.

————. *Man, Crime and Society.* New York: Random House, 1962.

Glaser, Daniel. *The Effectiveness of a Prison and Parole System.* New York: Bobbs-Merrill Co., 1964.

Glueck, Sheldon and Eleanor. *Unraveling Juvenile Delinquency.* New York: The Commonwealth Fund, 1950.

Gompers, Samuel. *Seventy Years of Life and Labor.* New York: Dutton, 1925.

Gordon, D. R. "Justice and the Death Penalty," *Christian Century,* July 31, 1963.

Gorer, Geoffrey. "Man Has No 'Killer' Instinct," *The New York Times Magazine,* November 4, 1966.

Hakeem, Michael. "A Critique of the Psychiatric Approach to Delinquency and Crime," *Law and Contemporary Problems,* Autumn, 1958.

Handlin, Oscar. *Race and Nationality in American Life.* Boston: Atlantic Monthly Press, 1957.

Harney, Malachi L. *The Informer in Law Enforcement.* Springfield, Ill.: C. C Thomas, 1960.

————. *The Narcotic Officer's Note Book.* Springfield, Ill.: C. C Thomas, 1961.

Hawke, David. *The Colonial Experience.* Indianapolis: Bobbs-Merrill, 1966.

Healy, William and Augusta Bonner. *New Light on Delinquency and Its Treatment.* New Haven: Yale University Press, 1936.

Hickey, Edward J. "Trends in Rural Police Protection," *The Annals,* January, 1954.

Hogan, Howard T. "Some thoughts on juries in civil cases," *American Bar Association Journal,* August, 1964.

Hoover, J. Edgar. "A Warning," *The Law Enforcement Bulletin,* September, 1965.

Hume, David. *An Enquiry concerning the principles of morals* [1752].

Index to Legal Periodicals. New York: H. W. Wilson Co., annual.

International Bibliography on Crime and Delinquency. New York: National Council on Crime and Delinquency, biannual.

International City Managers Association. *The Municipal Year Book 1966.* Chicago, annual.

Irving, John F. Y. (ed.). *Juvenile Court Judges Journal.* Chicago: American Bar Center, annual.

Johnson, Bertram. *An Analysis of Post-Discharge Criminal Behavior.* Division of Research Report Number 49. Sacramento: California Youth Authority, November, 1966.

Johnson, Earl. "Organized Crime: Challenge to the American Legal System," *Journal of Criminal Law, Criminology and Police Science,* Volume 53, 1962.

Kalven, Harry, Jr., and Hans Zeisel. *The American Jury.* Boston: Little, Brown, 1966.

Kamisar, Yale with William B. Lockhart and Jesse H. Choper. *Constitutional Law: Cases, Comments and Questions* (2nd ed.). St. Paul: West Publishing Co., 1967.

———— with Fred E. Inbau and Thurman Arnold. *Criminal Justice in Our Time.* Charlottesville, Va.: University Press of Virginia, 1965.

———— with Livingston Hall. *Modern Criminal Procedure: Cases, Comments and Questions* (2nd ed.). St. Paul: West, 1966.

————. "When the Cops Were Not 'Handcuffed'," *The New York Times Magazine,* November 7, 1965.

Karlen, Delmar. *Appelate Courts in the United States and England.* New York: New York University Press, 1963.

Kefauver Report on Organized Crime. Washing-

ton, D.C.: Government Printing Office, 1951.
Kephart, William M. "The Negro Offender: An Urban Research Project," *American Journal of Sociology,* July, 1965.
Keve, Paul. *Prison, Probation or Parole.* Minneapolis: University of Minnesota Press, 1954.
Kinsey, Alfred C., Wardell Pomeroy and Clyde E. Martin. *Sexual Behavior in the Human Male.* Philadelphia: W. B. Saunders, 1948.
Leibman, Morris I. "Civil Disobedience, a Threat to Our Law Society," *The Freeman,* December, 1964.
Levy, David M. "On the Problem of Delinquency," in *Yearbook.* Washington, D.C.: National Probation Association, 1932–33.
Lewis, Norman. *The Honored Society.* New York: G. P. Putnam's Sons, 1964.
Lewis, Oscar. *La Vida.* New York: Random House, 1966.
Locke, John. *Of civil government, two treatises* [1690].
Long, Senator Edward V. *Bill to outlaw wiretapping and eavesdropping except in cases of national security.* S. 928. 90th Congress, 1st Session (1967).
Lorenz, Konrad. *On Aggression.* New York: Harcourt, Brace & World, 1966.
Lyle, David. "The Logistics of Junk," *Esquire,* March, 1966.
McBee, S. "Edging Away from Capital Punishment," *New Republic,* January 30, 1965.
McClellan Committee Reports. Hearings before U.S. Senate Select Committee on Improper Activities in the Labor or Management Field. 86th Congress, 2nd Session (1960) and 85th Congress, 2nd Session (1958).
McClellan, Senator John. *Bill to permit wiretapping by federal and state officers under court order.* S. 675. 90th Congress, 1st Session (1967).
MacInnes, Colin. "The Criminal Society," in *The Police and the Public.* London: Wm. Heineman, Ltd., 1962.
Maguire, John M. *Evidence of Guilt.* Boston: Little, Brown, 1959.
Mason, Alpheus Thomas. *The Supreme Court from Taft to Warren.* Baton Rouge, La.: Louisiana State University Press, 1958.
Mathiesen, Thomas. *The Defences of the Weak.* London: Tavistock, 1965.
Mayers, Lewis. *The American Legal System* (rev. ed.). New York: Harper & Row, 1964.
Meyer, Henry J., Edgar F. Borgatta and Wyatt C. Jones. *The Girls at Vocational High.* New York: Russell Sage Foundation, 1965.
Meyers, Thomas J. "Psychiatric Examination of the Sexual Psychopath," *Journal of Criminal Law, Criminology and Police Science,* March, 1965.
Mill, John Stuart. *Utilitarianism* [1863].
Miller, Walter B. "The Impact of a 'Total Community' Delinquency Control Project," *Social Problems,* Fall, 1962.
Morris, Terence P. and Pauline. *Pentonville: A Sociological Study of an English Prison.* London: Routledge and Kegan Paul, 1963.
Murphy, Walter F. *Wiretapping on Trial: A Case Study in the Judicial Process.* The story of the Olmstead case. New York: Random House, 1965.
Murtagh, John M. and Sara Harris. *Cast the First Stone* (rev. ed.). New York: McGraw-Hill, 1963.
Myrdal, Gunnar. *An American Dilemma.* New York: Harper & Brothers, 1944.
National Commission on Law Observance and Enforcement. *Report on Lawlessness in Law Enforcement* (generally the *Wickersham Report*). Washington, D.C.: Government Printing Office, 1931.
National Council on Crime and Delinquency. *Correction in the United States.* A Survey for the President's Commission on Law Enforcement and Administration of Justice. New York, 1967.
Newman, Donald J. *Conviction: The Determination of Guilt or Innocence Without Trial.* Boston: Little, Brown, 1966.
Newman, Dorothy K. "The Negro's Journey to the City," *Monthly Labor Review,* May–June, 1965.
————. "The Negroes in the United States, Their Economic and Social Situation," U.S. Bureau of Labor Statistics *Bulletin.* Washington, D.C., June, 1966.
New York State Commission of Investigation. *Syndicated Gambling in New York State.* A report. Albany, 1961.
————. *The Loan Shark Racket.* A report. Albany, 1965.
Nyswander, Marie. *The Drug Addict as a Patient.* New York: Grune & Stratton, 1956.
O'Donnell, John A. "Narcotic Addiction and Crime," *Social Problems,* Volume 13, 1966.
Organized Crime and Illicit Traffic in Narcotics. Report by U. S. Senate Committee on Government Operations. 89th Congress, 1st Session (1965).
Orshansky, Mollie. "Recounting the Poor—A Five Year Review," *Social Security Bulletin,* Washington, D.C., April, 1966.
Ottenberg, Miriam. *The Federal Investigators.* Englewood Cliffs, N.J.: Prentice-Hall, 1962.
Packer, Herbert L. "The Courts, the Police and the Rest of Us," *Journal of Criminal Law, Criminology and Police Science,* Volume 238, 1966.
————. "The Crime Tariff," *The American*

(Continued on page 52)

CULTURAL ROOTS

(*Continued from page 7*)

Gradually an "acceptable" way of operating was worked out in the cities. City officials closed their eyes to violations of the blue laws on Sundays and other days and, in return, those who operated saloons, beer gardens, dance halls, bawdy houses, burlesque shows, card games and gambling places "paid off" to officials, politicians and police.

Since those who operated enterprises prohibited or regulated by the blue laws were engaged in hazardous undertakings requiring the payment of graft money, these enterprises tended to concentrate into a few hands and to become big business, even syndicates. Another result was the growth of city political machines—based in large part on the immigrant vote, the operators of illicit amusements and the boodle those operators paid. Occasionally the police would stage "clean-up" raids as a sop to the reformers, but these were mostly confined, vindictively, to the operators who refused to "pay off." Occasionally, too, a spasm of reform would sweep a city and a "strict law-enforcement" mayor would be elected, but at the end of his term the voters would usually restore the machine to power, and the old, "easy" ways would return. The era of the city machines and their "bosses" reached its height at the turn of the century.[15] Since 1900, the decline in immigration, the general relaxing of the blue laws (except during the prohibition interlude), the widening of public welfare services, the growth of civil-service and merit systems for city police and other city employees, and stricter checks on the granting of franchises and other municipal business contracts have greatly weakened the old city machines and bosses.

It must not be thought that the United States was a land given over to lawlessness, for in most parts of the country throughout American history, persons and property were essentially as safe as they were in Europe, and much safer than in certain sections of European cities and in some areas of Spain, Sicily, Greece, and the Balkans.[16] However, there were problems of law enforcement peculiar to American conditions, aspects of law enforcement in which Americans were lax, and aspects in which they attempted to enforce the unenforceable.

During the twentieth century there developed many new attitudes toward crime, law enforcement, court procedures and the treatment of prisoners. Minority groups achieved wider and more effective justice under the law. The increasing activities of the federal government necessarily gave that government a larger criminal jurisdiction than it had earlier and federal law-enforcement agencies, including the FBI, multiplied and became more professional, as did law-enforcement agencies in states, counties and cities. But some of the traditional American mores with respect to law enforcement remained, for cultural attitudes and values are deeply rooted, and they often tenaciously persist long after the original conditions that nurtured them have disappeared.

[15] Lincoln Steffens, *The Shame of the Cities* (New York: Hill and Wang, 1957); also Steffens, *op. cit.;* for the problems of a reformer as a police commissioner of New York City, see E. E. Morison, ed., *The Letters of Theodore Roosevelt* (Cambridge: Harvard University Press, 1951), I, 455–596.

[16] In the 1830's, Harriet Martineau traveled by stage and boat all over the United States and frequently remarked that she felt absolutely safe. See Harriet Martineau, *Retrospect of Western Travel,* Vols. I and II (New York: Harper, 1838). Dickens, traveling the country in the 1840's, admitted that "any lady may travel alone, from one end of the United States to the other, and be certain of the most courteous and considerate treatment everywhere." See Dickens, *op. cit.,* p. 75.

LOCAL & STATE ENFORCEMENT

(*Continued from page 14*)

per cent in murder offenses to a low of 13.9 per cent in larcenies of $50 and over. With the exception of murder offenses, the clearance rates are not impressive.

Most departments are undermanned and at the same time are saddled with an assortment of public services, not properly police responsibilities, that drain their manpower

and divert energies from the basic task of law enforcement.

Police agencies in the United States face greater challenges today than at any time in history. These challenges must be met, not by the police alone, but by the total American public.

U. S. NARCOTICS BUREAU

(*Continued from page 30*)

Representatives which handles the budget of the Treasury Department and its Bureau of Narcotics. Steed points out that:[11]

> Illicit narcotics entering this country have been greatly reduced, with resultant decreases in the number of new known addicts. The price of illicit drugs has skyrocketed. Not only have savings to American citizens, to the Government and to humanity been made in the hundreds of millions of dollars, but literally countless human beings, especially children, have been spared the fate of a living death of drug addiction.
>
> * * *
>
> U.S. narcotics agents take pride in the fact that their efforts contributed to the largest seizure of marihuana on record. In September 1965 they assisted the Mexican Federal judicial police in an undercover case in the State of Gurerrero which resulted in a seizure of three and a half tons of marihuana.
>
> * * *
>
> In calendar year 1964 alone, U.S. narcotic agents stationed abroad seized 6.1 metric tons of opium or its equivalent in alkaloids. If this opium had been converted into heroin and smuggled into the United States it would have represented more than 1,300 pounds of pure heroin with an illicit black market value of at least $120 million.

THE CURE OF OPIATE ADDICTION

The United States Bureau of Narcotics was one of the first firm advocates of realistic attempts to cure addicts of their affinity for narcotics. The bureau helped to establish the federal narcotics hospitals, the finest of their kind in the world. It has participated in innumerable projects designed to rid the opiate victim of his disease. However, all efforts to date indicate that the best cure for narcotic addiction is for it not to occur; the old adage about the ounce of prevention being worth a pound of cure is applicable here with undisputed force. We must lean heavily on the quarantines of law enforcement to eradicate a pestilence where we have no ready and reliable cure.**

However, some addicts can be cured. Some do it on their own. Somehow they find resources, alone, or with the help of a family physician or friend, and "kick the habit." With today's light addictions, this is not so difficult as it once might have been. Some addicts are cured after detoxification in a hospital, and short or longer confinement therein. Some quit after the forced abstention of jail or prison. But for many the habitual use of opiates has a compelling and continuing fascination. The victim is "hooked"; he wants nothing else but to remain "hooked." Still, society must do its best to cure the addict because it is the addict at large in the community who, along with the availability of drugs, spreads the contagion of addiction.

There is no demonstrated chemical cure for opiate addiction. Many have been claimed. Cocaine was once considered a cure for opiate addiction.[12] Heroin also was once advocated as a cure for the opiate habit. The valuable synthetic opiate, Demerol, grossly injured many people when it was first promoted as a nonaddicting pain killer. Today, much is being written about the alleged benefit of the synthetic opiate, Methadon, as a cure for heroinism. At best its use substitutes one addicting chemical for another and as such would not deserve the respectable word "cure." One should not properly claim a cure when he has substituted highgrade Methadon for grossly diluted heroin. Some claims are being made that selected addicts are making good adjustments on Methadon maintenance. From almost a half century of

[11] Tom Steed, "Tribute to the U.S. Bureau of Narcotics," *Congressional Record—House* (February 7, 1967), pp. H 1071–1073.

[12] Sigmund Freud, *The Cocaine Papers* (Vienna: Dunquin Press, 1963).

** Ed Note: For further discussion of drugs and their relationship to crime see *Current History*, June, 1967.

close observation of addicts, the writer would predict that the extensive use of such a Methadon program would simply serve to furnish the addict underworld with an acceptable addicting substitute when preferred drugs were not available.

Expanded rehabilitation programs are presently being developed under legislation recently enacted in the 89th Congress.

More can be done than has been done to save the addict from his affliction. Most rehabilitation programs to date have been incomplete, because they deal with one or another single facet of a problem that must be approached completely to be solved effectively. At the same time, many cure plans have been too ambitious because they require the unnecessary outlay of huge sums for extensive buildings and other installations, and highly expensive medical programs.

A medical program which would require compulsory treatment of the addict with initial confinement, which would give him needed medical examinations and supervision, which would require that he perform useful work in a drug-free environment unless he could demonstrate that he could remain drug-free at large—this is a realistic, economical program with great possibility of success for a large proportion of the addict population. Such a program must be extensive enough to reach a sizable fraction of the addict community, otherwise it would be shadow-boxing. Of such shadow-boxing, we have had too much, too long.[13]

[13] See Malachi L. Harney, "Current Provisions and Practices in the United States of America Relating to the Commitment of Opiate Addicts," *U.N. Bulletin on Narcotics,* Vol. 14, No. 3 (July–September, 1962).

CONTROL OF FIREARMS

(*Continued from page 42*)

tion recognize that where there is smoke there is fire, that all the adverse comment concerning the easy availability of hand guns is a reflection of public uneasiness. They assert that there is a clear distinction between the right to keep and bear arms, and their use for an unlawful purpose. Hence they have advocated legislation which would increase the penalties for the use of firearms in connection with the commission of a crime. A number of congressmen introduced legislation in the 89th Congress which would have made it a federal crime punishable by imprisonment of 25 years to commit certain crimes such as larceny, burglary and murder using firearms transported in interstate commerce. Those who favor this legislation assert that it would deter all but the really hardened criminal from using guns. Obviously those who want the legislation to apply to the availability of guns, rather than their use, would not be convinced of the deterrent value claimed for this type of law.

The National Rifle Association, representing sportsmen and hunters, favored three bills in the last Congress. One would have amended the Federal Firearms Act to prevent the interstate shipment of firearms in violation of any state law. The second, mentioned in the preceding paragraph, would have meted out mandatory prison terms to people who commit certain crimes while armed with a gun. The third would have extended the National Firearms Act to cover devices such as mortars, bazookas, bombs, mines and field artillery. But the association strongly opposed the Dodd bill, with its prohibition on all interstate mailing of handguns.[7] The association is anxious to publicize its position on this point because it feels that Carl Bakal's book, *The Right to Bear Arms,* maligned it. In Bakal's view, the association's leadership has fought to scuttle all meaningful legislative efforts to curb the abuse of firearms. The association is powerful, with some 740,000 members, and 400,000 members of affiliated clubs. It has members in Congress, and its constituency embraces a broad stratum of American life.

A new organization called the National Council for a Responsible Firearms Policy

[7] *Washington Star,* August 18, 1966, p. K4. See also the speech by Senator Edward Kennedy (D., Mass.) to the National Rifle Association telling members that the majority of their fellow Americans favor a gun control law (*The New York Times,* April 3, 1967, p. 18).

has recently been organized to press for the adoption of legislation that would limit the circulation of firearms. Its president is James V. Bennett, former director of the Federal Bureau of Prisons. Bennett is on record as stating that "easy accessibility of firearms is a significant factor in the murders committed in the United States."

The battle lines, then, are clearly drawn. One side says that the federal government should tighten regulations on the gun traffic, and that registration of such weapons is perfectly reasonable—that it is, in fact, in a class with the registration of automobiles. The opponents contend that if there is to be any further legislation—and many of them oppose it altogether—it should address itself to the problem of misuse. In this view, to regulate the sale and ownership of guns is to penalize the legitimate firearms owner without really touching the criminal. Both sides hold their convictions rather deeply. In this atmosphere it will be difficult to arrive at an acceptable compromise. Even if one is reached, only the test of practice will measure its validity.

FEDERAL LAW ENFORCEMENT

(*Continued from page 22*)

further increases in such expenditures. The statute thus asks state and local governments to make substantial improvements in their own contributions of talent and resources to meet the problem of crime in American society today.

In addition, an applicant will be required to file a law enforcement and criminal justice plan with the Attorney General. State and local planning is a prerequisite for federal assistance. Adequate planning will insure that states and local communities recognize their own needs, that new expenditures are properly allocated and that appropriate priorities are established. It will promote coordination and cooperation by contiguous and overlapping local jurisdictions and by diverse agencies in the field of law enforcement and criminal justice.

As President Johnson has very clearly emphasized, law enforcement in the United States must be based on local initiative, generated by local energy, and controlled by local officials. The Safe Streets and Crime Control Act will provide substantial federal assistance to these officials in meeting their responsibility. It will usurp none of the traditional independence of state and local governments. It will help to bring modern science and technology into the fight against crime. It holds the promise of a coordinated nationwide effort toward a safer, more crime-free America.

READINGS ON CRIME

(*Continued from page 48*)

Scholar, Autumn, 1964.

————. "Two Models of the Criminal Process," *University of Pennsylvania Law Review,* Volume 113, Number 1, 1964.

Paulsen, Monrad G. and Sanford H. Kadish. *Criminal Law and Its Process.* Boston: Little, Brown, 1962.

Peterson, Virgil W. *Barbarians In Our Midst: A History of Chicago Crime and Politics.* Boston: Little, Brown, 1952.

————. *Gambling: Should It Be Legalized?* Springfield, Ill.: C. C Thomas, 1951.

Playfair, Giles and Derrick Sington. *The Offenders.* New York: Simon & Schuster, 1957.

Polsky, Howard W. *Cottage Six, the Social System of Delinquent Boys in Residential Treatment.* New York: Russell Sage Foundation, 1962.

Pound, Roscoe. *Law and Morals.* Chapel Hill, N.C.: University of North Carolina Press, 1926.

————. *The Development of Constitutional Guarantees of Liberty.* New Haven: Yale University Press, 1957.

President's Advisory Commission on Narcotics and Drug Abuse. A Report. Washington, D.C.: Government Printing Office, 1963.

President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society.* A Report. Washington, D.C.: Government Printing Office, 1967.

Prettyman, E. Barrett, Jr., *Death and the Supreme Court.* New York: Harcourt, Brace & World, 1961.

Ramirez, Efren. "The Problem of Narcotics Addiction in New York City," October, 1966 (mimeo).

(Part II of this reading list will appear in our August, 1967, issue.)

THE MONTH IN REVIEW

A CURRENT HISTORY Chronology covering the most important events of May, 1967, to provide a day-by-day summary of world affairs.

INTERNATIONAL

Disarmament

May 2—It is reported that the resumption of the Geneva Disarmament Conference, scheduled for May 9, has been delayed until May 18 because of Soviet objections to U.S. concessions made to West Germany and Italy.

May 18—The conference reconvenes.

May 19—*Tass* (official Soviet press agency) announces that the Soviet Presidium of the Supreme Soviet has approved the treaty providing for the peaceful uses of outer space and banning nuclear weapons in space.

European Economic Community (Common Market)

(See also *United Kingdom*)

May 11—Britain makes formal application for membership in the E.E.C.

May 16—At a news conference, French President Charles de Gaulle declares that before Britain can join the E.E.C., ". . . there are formidable obstacles to overcome. . . ."

May 17—Prime Minister Harold Wilson of Britain declares that he will "not take no" for an answer concerning British membership in the E.E.C.

May 29—At a summit meeting of the Common Market states in Rome, the 10th anniversary of the signing of the Treaty of Rome (establishing the Common Market) is celebrated.

May 30—The 6 heads of the member states discuss British entry into the E.E.C.

General Agreement on Tariffs and Trade (GATT)

May 15—The principal trading nations involved in the "Kennedy round" of tariff negotiations reach agreement. After over 4 years of talks, some 50 nations (responsible for 80 per cent of world trade) agree to reduce overall tariff levels by an average of about one-third, to liberalize agricultural trade, and to establish a program of food aid for hungry nations.

International Conference on Water for Peace

May 23—At a meeting in Washington, D.C., U.S. President Lyndon B. Johnson addresses delegates from 91 participating nations. He announces that he has ordered the U.S. secretary of state to establish a Water for Peace Office in the U.S.

Middle East Crisis

(See also *U.S., Foreign Policy*)

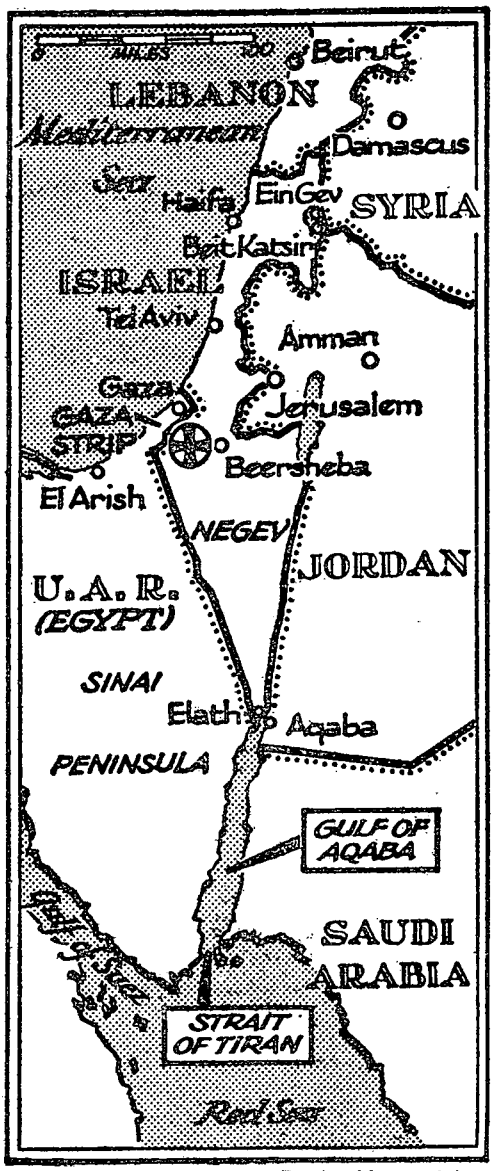
May 9—It is reported that last night border terrorists, apparently from Syria, entered Israel and set off an explosion on a major highway at a point 5 miles inside the Israeli border.

May 15—It is reported that the U.A.R. has alerted its armed forces because of increased tension along the Syrian-Israeli frontier.

May 17—Syria announces that its armed forces and militia have been made ready for action because of the Israeli buildup along the Syrian border and threats of retaliation made by Israeli officials after the explosion of May 9, and other incidents.

May 18—In Tel Aviv, Israeli Foreign Minister Abba Eban meets with the U.S., British and French ambassadors to discuss Israeli-Arab tensions.

U.N. Secretary-General U Thant announces that he has decided to order the withdrawal of the U.N. Emergency Force from the Israeli-U.A.R. armistice line, in response to the U.A.R. request earlier today for the removal of the force. U Thant asserts that the Emergency Force was sent to the Middle East with the U.A.R.'s consent and that it cannot remain if "that consent were withdrawn."



GULF OF AQABA

The U.A.R. reports that U.A.R. forces have taken over posts formerly held by the U.N.E.F.

May 19—The U.N. Emergency Force ends its 10-year-old responsibility for keeping peace between Israel and the U.A.R. At the request of the U.A.R., all U.N.E.F. patrols in the Sinai Peninsula and on the Gaza Strip on the U.A.R. side are halted. (Israel has never permitted U.N. patrols on its side.)

May 20—The U.A.R. declares that a state of emergency exists in the Gaza Strip. At an Arab League Council meeting, a joint declaration by the 12 Arab states' ambassadors warns that an attack against any Arab state would be an attack against all. Only Tunisia does not approve the resolution.

U Thant announces that he will fly to Cairo tomorrow to try to ease the Israeli-Arab tension.

U Thant reports to the Security Council on the situation in the Middle East.

May 22—U.A.R. President Gamal Abdel Nasser announces a blockade of Israeli ships through the Strait of Tiran at the mouth of the Gulf of Aqaba (Israel's only exit to the south and east). Nasser asserts that "the Israeli flag will not pass through the Gulf of Aqaba and our sovereignty over the gulf's entrance is not negotiable"; nor will other ships carrying strategic cargoes to Israel be permitted to pass.

It is reported that yesterday the U.A.R. ordered total mobilization of its 100,000 man army reserve. It is disclosed that Iraqi army and air force units will be sent to the U.A.R.

It is reported that Israel has mobilized its reserves, estimated at 230,000 men.

May 23—Premier Levi Eshkol of Israel warns that a blockade at the Strait of Tiran, entry to the Gulf of Aqaba, will be regarded as "an act of aggression against Israel."

President Johnson tells the U.A.R. to avoid an "illegal" blockade of the Gulf of Aqaba, and warns that the U.S. supports the territorial integrity of all Middle Eastern states. Johnson asserts that the U.S. supports "free, innocent passage" of all ships through the international waterway.

Vessels of the U.S. 6th Fleet are ordered toward the eastern Mediterranean.

The U.S.S.R., in a statement distributed by *Tass* (official Soviet press agency), criticizes Israel for "aggravating" tension in the Middle East and warns that any aggression in the Middle East will be met by "not only the united strength of the

Arab countries, but also resolute resistance to aggression on the part of the Soviet Union. . . ."

U.N. Secretary-General U Thant arrives in Cairo. Shortly afterwards, a large anti-Israeli rally is held 100 yards from U Thant's hotel.

May 24—*The New York Times* reports that the U.S. government has evidence that the U.A.R. has mined the Strait of Tiran and the Gulf of Aqaba.

In an Army Day speech, King Hussein of Jordan declares that Jordan will join the Arab world in resisting Israeli aggression.

At an emergency meeting of the U.N. Security Council, the U.S. representative, Arthur J. Goldberg, offers U.S. cooperation with Britain, France and the Soviet Union, inside or outside the U.N., in maintaining peace in the Middle East.

May 25—U Thant returns to the U.N. from Cairo.

Abba Eban flies to the U.S. to confer on the Middle East crisis. En route he stops in Paris to talk to French President Charles de Gaulle and in London, to talk to Prime Minister Harold Wilson.

May 26—A Soviet government spokesman asserts that "the source of tension is Israel" and that the U.S., Britain and France should make Israel "stop its provocations."

Israeli Foreign Minister Abba Eban meets at the White House with President Johnson.

Nasser declares that any Israeli military action will lead to full-scale war and that the U.A.R. will fight to destroy Israel.

May 27—U Thant presents a report on the Middle East situation to members of the Security Council; he reiterates his view that conditions are ". . . more menacing, than at any time since the fall of 1956."

May 28—A few hours after receiving a report from Abba Eban on his talks in Washington, London and Paris, Israeli Premier Eshkol announces that the Israeli cabinet has decided to continue seeking a political solution to guarantee free passage in the Strait of Tiran.

May 29—The Israeli High Command reports that Egyptian soldiers have opened fire in the Gaza Strip and that Israeli troops have responded.

May 30—It is reported that Turkey has granted the Soviet Union permission to send 10 warships from the Black Sea through the Turkish Straits to the eastern Mediterranean.

In Paris, official sources report that the U.S.S.R. has rejected France's proposal for a 4-power conference on the Middle East.

U.A.R. President Nasser and King Hussein of Jordan sign a mutual defense pact in Cairo.

North Atlantic Treaty Organization (NATO)

May 2—The U.S. announces that it will withdraw up to 35,000 troops from West Germany next year. Britain will withdraw one of its brigades from its Army of the Rhine. The redeployed forces will remain committed to NATO.

May 5—Britain and West Germany sign an agreement stipulating that Germany will spend $140 million in Britain during the current fiscal year to help offset the costs of maintaining the British Army of the Rhine.

Pacem in Terris Conference

May 28—In a televised address to more than 300 delegates at an unofficial conference in Geneva, U.N. Secretary-General U Thant warns that the failure of governments to live up to their international obligations could spark another world war. The conference is sponsored by the Center for the Study of Democratic Institutions in Santa Barbara, California.

May 31—The conference ends.

United Nations

(See also *Intl, Middle East Crisis*)

May 11—At a luncheon meeting of U.N. correspondents, U.N. Secretary-General U Thant voices his fear that "the initial phase of World War III" is being waged in Vietnam.

May 19—Voting 85 to 2 with 30 abstentions, the General Assembly approves a resolution placing South-West Africa under U.N. administration. South Africa currently administers the territory.

War in Vietnam

May 2—According to *The New York Times*, "informed sources" in Saigon disclose that General William C. Westmoreland, the U.S. commander in Vietnam, has asked President Johnson to increase troop levels to 600,000 men in Vietnam.

May 3—At a news conference, President Johnson declares that he has no "imminent" plans to increase U.S. troop levels in Vietnam.

May 5—U.S. marines secure Hill 881 North in South Vietnam, the last major point commanding the airstrip and valley of Khesanh. In the 12-day campaign to gain this position, nearly half the U.S. combat troops involved were either killed or wounded.

May 6—Three captured U.S. pilots, shot down over Hanoi, are put on display before newsmen at the International Press Club in Hanoi by the North Vietnamese.

May 8—A dispatch from John M. Hightower of The Associated Press reports that President Johnson prohibited U.S. bombers from attacking Hanoi from December, 1966, to April, 1967, in the hope that President Ho Chi Minh of North Vietnam would agree to open peace talks.

May 11—U.S. Ambassador to South Vietnam Ellsworth Bunker places General William C. Westmoreland in charge of the U.S. role in the pacification program.

May 13—U.S. planes attack a storage area and an army barracks near Hanoi; each target is 4 miles from the center of the city.

May 19—U.S. marines and South Vietnamese soldiers open their first offensive within the demilitarized zone separating North and South Vietnam. The U.S. State Department describes the operation as a "purely defensive measure" and "not in any sense an invasion of North Vietnam."

May 20—U.S. bombers attack downtown Hanoi for the first time. Five U.S. planes are shot down. A 32,000-kilowatt power plant (North Vietnam's largest, 1.1 miles from Hanoi's center) is hit; a MIG airfield at Hoalac (20 miles from Hanoi) is also attacked.

An allied force of 10,000 men is engaged in clearing the enemy from the southern half of the demilitarized zone.

May 22—U.S. planes bomb the main electric power plant in Hanoi for the second time in 3 days.

May 23—A 24-hour ceasefire, in celebration of the birth of Buddha, takes effect.

May 24—U.S. and allied soldiers resume operations after the 24-hour ceasefire.

U.S. planes attack 3 railroad yards at Thainguyen, Viettri and Phutho, all within 50 miles of Hanoi.

May 25—A U.S. Command spokesman announces that U.S. casualties in Vietnam last week reached a record of 2,650 men for the week. U.S. losses in Vietnam since January, 1961, total 10,253 killed and 61,425 wounded.

May 28—The U.S. Command announces that yesterday U.S. jet planes attacked 2 rail lines linking North Vietnam with Red China.

CAMBODIA

May 3—Cambodia's chief of state, Prince Norodom Sihanouk, reorganizes the cabinet.

CHINA, PEOPLE'S REPUBLIC OF (Communist)

May 6—The Chinese government orders the expulsion of the correspondent for *Pravda* (Soviet Communist Party newspaper).

May 7—It is reported that during the last week Peking wall posters have disclosed that fighting has occurred in several Red Chinese cities. In an article in *Jenmin Jih Pao* (official newspaper), it is asserted that a long struggle lies ahead before the Cultural Revolution is finally and completely accomplished.

May 13—The *Chicago Daily News* publishes an interview with Premier Chou En-lai

written by Western newsman Simon Malley of *Jeune Afrique*. Premier Chou declares that China would intervene in Vietnam if North Vietnam were threatened by invasion or a "sellout peace."

May 15—The Chinese government sends a protest note to the British government charging British authorities with committing "fascist atrocities" during the recent Hong Kong riots. (See also *United Kingdom, British Territories, Hong Kong.*)

May 16—It is reported that Red Guards have prevented British chargé d'affaires Donald Hopson from leaving Peking on a short trip.

It is reported that Chinese rioters invaded the home of British diplomat Peter Hewitt. Anti-British demonstrations are rising in intensity because of recent outbursts in Hong Kong.

It is reported from Peking that Premier Chou En-lai has denied that Simon Malley interviewed him. He calls the interview an "out-and-out fabrication."

May 18—In an anti-British rally in Peking, Public Security Minister Hsieh Fu-chih warns Britain over the recent disturbances in Hong Kong.

May 24—Red Guards harass 2 departing British diplomats in Peking.

CUBA

May 18—The Cuban Communist Party admits that 3 Cubans took part in a rebel invading group that landed in Venezuela May 8. (See also *Venezuela.*)

May 24—The U.S. government announces that U.S. Army Major Richard H. Pearce and his 4-year-old son have defected to Cuba. The Havana radio reports that he will be granted political asylum.

FRANCE

(See also *Intl, E.E.C., Middle East Crisis; Vatican*)

May 17—A 24-hour nationwide general strike is staged. Industry, offices, schools and transportation are at a standstill.

May 20—Deputies in the national assembly defeat a motion of censure against Premier Georges Pompidou's government and in so doing approve the government's request for special executive powers to enact social and economic legislation.

French Territories

Guadeloupe

May 27—*The New York Times* reports that at least 8 persons have been killed and many more injured during anti-government rioting today.

GERMANY, FEDERAL REPUBLIC OF (West)

May 11—The Federal Bank reduces its discount rate to 3 per cent from 3.5 per cent.

May 23—The Christian Democratic Union, at a party meeting, elects Chancellor Kurt Georg Kiesinger as C.D.U. chairman.

GREECE

(See also *U.S., Foreign Policy*)

May 4—In a proclamation, the chief of the Greek Army General Staff, Lieutenant General Odysseus Angelis, bans 297 liberal and pro-Communist organizations; the assets of the organizations are confiscated.

May 5—Colonel Nikolas Makarezos, the minister of coordination, declares that the U.S. will have to aid Greece if it wants Greece to remain non-communist.

May 6—The military junta announces that at a cabinet meeting last night, it was decided to abolish the constitutional requirement that municipal and communal leaders be elected freely by universal suffrage. Instead, a "compulsory law" will be published to allow for the appointment of these officials.

May 10—The military junta approves a law giving itself control over the Greek Orthodox Church, ousting the primate, Archbishop Chrysostomos of Athens, and removing the 12-member Synod, the ruling panel of bishops. Under the new law (which the king must sign), the junta will have the power to elect the Synod and the government is authorized to name new bishops.

The junta charges Andreas Papandreou

with conspiracy to commit treason.

The junta restores constitutional guarantees of freedom.

May 13—The military junta names Archimandrite Jerome Kotsonis, chaplain to King Constantine, as Archbishop of Athens and Primate of Greece.

May 16—U.S. State Department officials disclose that some U.S. shipments of military supplies for Greece are being withheld because of U.S. displeasure with the ruling junta.

May 21—King Constantine announces that the military junta has agreed to a 6-month timetable for drafting a constitution; within one month, work on the draft will begin. The king also announces the birth of a son, Paul, heir to the throne.

HUNGARY

May 17—The U.S. State Department announces that the Hungarian chargé d'affaires, Janos Radvanyi (head of the Hungarian embassy in the U.S.) has requested political asylum in the U.S. Refuge has been granted.

May 31—The U.S. State Department announces that the press secretary of the Hungarian embassy in Washington has defected to the U.S.

INDIA

May 6—The electoral college (composed of members of parliament and state legislators from the 17 states) votes for a new president.

May 9—Zakir Husain, a Muslim educator, is elected president of India.

IRAQ

May 10—President Abdel Rahman Arif swears in a new cabinet. He takes over the premiership.

May 25—The Iraqi defense minister, Major General Chaker Mahmoud, declares that Jordan's offer to allow Iraqi troops on its soil is "too late."

ISRAEL

(See *Intl, Middle East Crisis*)

JORDAN

(See also *Intl, Middle East Crisis*)

May 23—The Jordanian government orders the Syrian ambassador to close the Syrian embassy in Jordan and to leave the country. It is reported that the border with Syria has been closed. The Jordanian-Syrian dispute arose over the explosion at a Jordanian border post of a mine planted in a Syrian car driven by a Syrian. The Amman radio reports that the Jordanian parliament has approved a resolution condemning the incident.

KENYA

May 1—Vice-President Daniel Arap Moi leaves for Cairo to try to persuade U.A.R. President Nasser to stop shipping military supplies to Somali guerrillas in northern Kenya.

May 2—In a 65-page document presented to U.N. members and members of the Organization of African Unity, the Kenyan government warns Somalia against assisting Somali guerrillas in Kenya.

KOREA, REPUBLIC OF (South)

May 4—Unofficial returns from yesterday's presidential election indicate a large victory for President Chung Hee Park.

NIGERIA

May 20—Colonel Yakubu Gowon, head of the central military government, accepts the recommendations of a civilian reconciliation committee for settling regional conflicts. Colonel Gowon announces that next Tuesday economic sanctions against the Eastern Region will be lifted.

May 26—The governor of the Eastern Region, Lieutenant Colonel Odumegwu Ojukwu, speaking before 300 delegates to the region's consultative assembly, asserts that the East must "make plans for a separate existence. . . ."

May 27—Rejecting the federal proposal for a loose confederation of states, the Eastern Region's consultative assembly gives Ojukwu a mandate to secede from the Ni-

gerian federation. The consultative assembly announces that the Eastern Region will be called the Democratic Republic of Biafra. The central military government proclaims a state of emergency. Colonel Gowon announces that he has assumed full powers as commander-in-chief.

May 29—The Eastern Region's government, in a radio broadcast, declares that "Neither the so-called state of emergency that Gowon has declared nor the decree purporting to create states can apply to this region."

May 30—Declaring itself the independent Republic of Biafra, the Eastern Region announces its secession from Nigeria.

SAUDI ARABIA

May 14—A Saudi Arabian broadcast charges that U.A.R. planes have bombed Qizan, a Saudi port town; 1 person was killed and 11 were wounded.

SPAIN

May 1—In at least 13 cities, anti-government demonstrators clash with police.

May 17—At Madrid University, students riot, smash the offices of a dean, and fight with police.

SYRIA

(See *Intl, Middle East Crisis*)

U.S.S.R., THE

(See also *Intl, Disarmament* and *Middle East Crisis*)

May 1—The Soviet defense minister, Marshal Andrei A. Grechhko, addresses crowds in the traditional May Day speech preceding the parade in Red Square.

May 10—In the Sea of Japan, a U.S. destroyer is scraped by a Soviet destroyer. The U.S. protests to the Soviet Union. (See also *U.S., Foreign Policy.*)

May 19—It is officially announced that Yuri V. Andropov has been named chairman of the State Security Committee (the secret police agency).

May 27—*Pravda* (Soviet Communist Party newspaper) publishes an editorial accusing the U.S. of using the defection of Svetlana Alliluyeva (Stalin's daughter) for "anti-Soviet campaigns." This is the first official mention of her defection.

UNITED ARAB REPUBLIC

(See *Intl, Middle East Crisis*)

UNITED KINGDOM

(See also *Intl, E.E.C.; China*)

May 2—British Prime Minister Harold Wilson tells the House of Commons that Britain will reapply for membership in the E.E.C.

May 4—The Bank of England cuts its bank rate to 5.5 per cent from 6 per cent (the third half point reduction this year).

May 7—Stephen Spender, British poet and author, declares that he has resigned as a contributing editor of *Encounter* because the magazine has been subsidized by the U.S. Central Intelligence Agency.

May 8—Prime Minister Wilson hints that Britain may decide not to purchase the Poseidon missile from the U.S. (The U.S. has designed the Poseidon to replace the Polaris missile.) Presently Britain is building 4 submarines to be fitted with the Polaris.

May 10—The House of Commons, 488–62, approves the government's plan to apply for membership in the Common Market.

May 16—The British government protests to Communist China over its failure to protect British missions in Peking and Shanghai.

British Territories

Hong Kong (Crown Colony)

(See also *China*)

May 11—In Hong Kong, rioting by leftists erupts; police restore calm after several hours. The rioting grew out of recent labor disputes.

May 12—Buses, trucks and cars are burned by a crowd of some 5,000 persons, as violence enters the third day. 100 persons are arrested.

May 22—Chinese Communists riot in Hong Kong. The Communist-owned Bank of

China, using loudspeakers, threatens a Communist takeover in Hong Kong. Hong Kong's police force, mainly Chinese, is urged to turn on the British.

South Arabia, Federation of

May 7—According to *The New York Times,* "informed diplomatic sources" have reported that Britain will delay independence for Aden and the withdrawal of British troops from there.

May 10—It is reported that Sir Humphrey Trevelyan, a former British ambassador to the U.S.S.R., has been appointed British High Commissioner of Aden. He succeeds Sir Richard Turnbull.

UNITED STATES, THE

Civil Rights

May 3—Martin Luther King arrives in Louisville, Kentucky, to help in the drive for a fair housing law.

May 6—In Louisville, the Kentucky Derby proceeds smoothly. In deserted downtown Louisville, civil rights demonstrators, who had threatened to demonstrate to disrupt the Derby, parade for an open housing law.

May 10—Acting under a congressional directive, Secretary of Health, Education and Welfare John W. Gardner announces that all civil rights compliance activities in HEW are being consolidated; the 5 bureau chiefs administering HEW programs will no longer be responsible for enforcing civil rights in conjunction with programs that they administer. There has been considerable criticism by Southern congressmen of school desegregation guidelines set up by the U.S. Commissioner of Education.

May 11—In Jackson, Mississippi, National Guardsmen take over the campus of Jackson State College for Negroes and impose martial law in downtown Jackson. Rock and bottle throwing has occurred on the campus for 2 successive nights.

May 12—Stokely Carmichael resigns as chairman of the Student Nonviolent Coordinating Committee. He is succeeded by H. Rap Brown, S.N.C.C.'s Alabama state director.

In Jackson, over 300 Negroes demonstrate to protest the death of a Negro shot during last night's riot.

May 17—At Texas Southern University (a predominantly Negro school), a 5-hour riot results in the death of a policeman; 2 other policemen and a student are wounded. Students and police engage in gunfighting for almost 45 minutes.

May 20—In a position paper for its 3,000 members across the U.S., Freedom House criticizes Martin Luther King for supporting an anti-Vietnamese war coalition that includes "well-known Communist allies and luminaries of the hate-America Left."

May 24—In Jackson, an 18-member biracial group of civil rights organizations submits 12 demands to the Chamber of Commerce for easing Negro-white tensions.

Economy

May 4—Stock prices push the Dow-Jones industrial index up to 901.95; this is the first time that the Dow-Jones figure has closed at over 900 since June 22, 1966. The volume of shares traded on the New York Stock Exchange reaches 12.85 million.

May 23—Arthur M. Ross, Commissioner of Labor Statistics, reports that the consumer price index rose three-tenths of 1 per cent in April (the largest rise since October, 1966).

May 31—Stock prices on the New York Stock Exchange drop, purportedly because of the Middle East crisis.

Foreign Policy

(See also *Intl, Middle East Crisis, War in Vietnam; Hungary*)

May 1—Speaking at the annual meeting of the U.S. Chamber of Commerce, Secretary of State Dean Rusk declares that Hanoi has rejected 28 peace proposals.

May 3—In congressional testimony disclosed today, it is learned that General Earle G. Wheeler, chairman of the Joint Chiefs of Staff, told the House Military Appropriations Subcommittee in early April that "there is no military justification for any reduction of military forces in Central

Europe." (See also *Intl, NATO.*)

Despite questioning of U.S. policy in Vietnam in a staff study prepared for the Senate Republican Policy Committee, House Republican leader Gerald R. Ford (Mich.) declares that all House Republicans support President Lyndon B. Johnson's Vietnam policy. (See also *U.S., Politics.*)

May 4—Speaking before the House Foreign Affairs Committee, Secretary of State Rusk rules out the possibility of "any nuclear ultimatum" to North Vietnam.

May 7—J. Kenneth Galbraith, economist and former U.S. Ambassador to India, announces that President Johnson has asked the State Department "to make some representation" on behalf of former U.S. citizen Andreas Papandreou, son of a former Greek premier. Papandreou has been imprisoned by the Greek military junta on charges of high treason. (See also *Greece.*)

In answer to queries by *The New York Times,* Senator Edward M. Kennedy (D.-Mass.) says that South Vietnamese civilian war casualties occur at a rate of over 100,000 annually. The finding is a result of an investigation conducted by Kennedy and the staff of the Senate Subcommittee on Refugees and Escapees.

May 11—For the second consecutive day, the U.S. destroyer *Walker* is bumped by a Soviet warship in the Sea of Japan. (See also *U.S.S.R.*)

U.S. Secretary of Defense Robert McNamara declares that he has warned the ruling junta in Greece that military aid may be terminated unless Greece restores constitutional government.

May 13—In New York City, some 70,000 men, women and children parade on 5th Avenue in a show of support for U.S. soldiers fighting in Vietnam.

The U.S. State Department declares that it considers the bumping of the *Walker* a closed incident.

May 15—Senator John Sherman Cooper (R.-Ky.), in a speech on the Senate floor, urges the U.S. to restrict its bombing of North Vietnam "—if bomb it must—to infiltration routes near the demilitarized zones where men and supplies enter South Vietnam over the 17th parallel, or through Laos."

Also in a Senate speech, Majority Leader Mike Mansfield (D.-Mont.) urges that the U.N. debate the Vietnamese war with the "combatants or potential combatants."

May 17—In a signed statement, 16 U.S. Senators who oppose U.S. policy in Vietnam warn Hanoi that they do not support unilateral withdrawal and that those supporting President Johnson or urging greater escalation in Vietnam far outnumber the opponents of the war. The statement asserts that peace negotiations are the "only remaining alternative to a prolonged and intensified war."

May 22—The U.S. State Department urges U.S. tourists to avoid visiting Israel, the U.A.R., Syria, and Jordan because of the Middle East situation. (See also *Intl, Middle East Crisis.*)

May 24—It is reported from Cairo that U.S. Ambassador to the U.A.R. Richard H. Nolte has privately informed the U.A.R. that the U.S. considers Egypt's blockade of the Gulf of Aqaba an "act of aggression."

May 25—President Johnson flies to Canada to visit Expo 67 and lunch with Canadian Prime Minister Lester B. Pearson. It is reported that they are to discuss Vietnam and the Middle East.

The U.S. orders dependents of U.S. officials in the U.A.R. and Israel to leave for home.

Government

May 1—Speaking before the 1967 White House Fellows, President Johnson declares that ". . . freedom of speech is a two-way street. We must guard every man's right to speak, but we must defend every man's right to answer."

Betty Furness, television personality, is sworn in as President Johnson's special assistant for consumer affairs.

May 2—President Johnson asks Congress to appropriate $75 million for summer anti-poverty programs.

May 6—The National Rifle Association, in an editorial in the May issue of *The American Rifleman* (reported today by *The New York Times*), asserts that the N.R.A. supports private ownership of guns because armed private citizens "could prove essential," if necessary, in repelling "the kind of mob violence that has swept many American cities."

May 10—*The New York Times* reports that William S. Gaud, administrator of the Agency for International Development, has signed an order making it possible to use foreign aid funds for supplying birth control assistance to developing countries.

May 14—A study group for the President's Commission on Law Enforcement and Administration of Justice, in a special report on organized crime, declares that the Cosa Nostra's penetration of legitimate business goes hand in hand with the corruption of public officials at all levels.

May 15—In Windsor Locks, Connecticut, President Johnson meets with the 6 New England governors. He promises that the federal government will study further the plight of the New Haven Railroad. To promote better communication between the White House and the governors' mansions, President Johnson announces the appointment of former Ambassador to South Korea Winthrop G. Brown as State Department representative to the 50 states, a newly established office.

In testimony before the House Ways and Means Committee, Secretary of the Treasury Henry H. Fowler urges that the permanent ceiling on the national debt be raised to $365 billion; the current temporary ceiling is $336 billion.

May 16—William J. Porter, formerly deputy ambassador in South Vietnam, is named ambassador to South Korea. He succeeds Winthrop G. Brown.

May 22—President Johnson appoints Alexander B. Trowbridge as secretary of commerce. Trowbridge succeeds John T. Connor.

May 25—President Johnson, in a message to Congress, urges the passage of a presidential campaign financing plan because of the "skyrocketing" cost of running for office. He also suggests campaign assistance to those running for office on lower levels.

The Senate completes congressional action on a more than $2-billion supplemental money bill, including $75 million for the administration's summer program for unemployed youths.

May 26—At a meeting with 50 representatives of domestic and foreign car manufacturers, Lowell K. Bridwell, the federal highway administrator, gives assurances that federal standards for padded interiors on 1968 models will be modified again. The standard has been modified previously.

May 29—Director of the U.S. Information Agency Leonard H. Marks announces that John Charles Daly, Jr., television news analyst, has been named director of the Voice of America. Daly succeeds John Chancellor.

May 31—The Senate approves a compromise bill to restore major business tax incentives dropped in October, 1966, as part of an anti-inflation campaign. The bill includes a rider suspending key provisions of a 1966 law providing for presidential campaign financing until Congress takes further action. The bill is sent to the White House.

Labor

May 2—President Johnson signs a joint congressional resolution extending the railroad strike prohibition by 47 days, until June 19.

May 4—In a message to Congress, President Johnson asks for a joint resolution to prevent a strike by 6 shop craft unions against the nation's railroads. The legislation recommended by the President provides for a 90-day mediation period to allow a 5-man board to try to work out a settlement. If no agreement is reached in 90 days, the recommendations made by the 5-member board will become binding until January 1, 1969 (after which time, the unions can strike).

May 5—*The New York Times* and the

printers' union (Typographical 6) reach agreement on a new 3-year contract increasing wages over 21 per cent. The agreement follows the lines negotiated last week by the printers and *The Daily News* (New York).

May 7—In an article for the May 20, 1967, issue of *The Saturday Evening Post,* a former official of the C.I.A., Thomas W. Braden, names prominent labor leaders as recipients of large subsidies from the C.I.A. One of those named, United Automobile Workers' President Walter P. Reuther, issues a statement declaring that in an "emergency situation, 15 years ago, the U.A.W. did agree reluctantly on one occasion to the request to transmit Government funds. . . ."

May 8—George Meany, president of the American Federation of Labor-Congress of Industrial Organizations, declares that "Not one penny of C.I.A. money has ever come in to the A.F.L. or the A.F.L.-C.I.O. to my knowledge over the last 20 years." He remarks that he cannot speak for other union leaders.

May 29—The International Brotherhood of Teamsters announces that its members have approved by a large majority a 3-year national contract with the trucking industry; teamsters will receive increases of 76¢ hourly in wages and benefits.

Military

May 3—In a speech to the state directors of the Selective Service System at the White House, President Johnson appeals for more equitable representation of minority groups on the 4,100 local draft boards.

May 8—A federal grand jury in Houston, Texas, indicts heavyweight fighter Cassius Clay for refusing to be inducted into the army.

May 9—It is reported that a Defense Department official has testified before a Senate subcommittee that the U.S. is developing a missile defense system using X-rays from thermonuclear explosions for protection against incoming nuclear missiles.

James E. Webb, administrator of the Apollo project, announces major revisions in the lunar program.

May 10—Lieutenant General Lewis B. Hershey, director of Selective Service, tells the House Armed Services Committee that college qualification tests have been suspended until President Johnson decides whether or not educational deferments will be eliminated.

The Defense Department announces that it has signed a $1.82-billion contract with the General Dynamics Corporation, Fort Worth, Texas, for construction of the F-111 multipurpose jet.

May 29—The U.S. Air Force announces that retirements and resignations of 3,700 regulars from colonel on down will be delayed up to a year to maintain a certain level of experienced personnel.

Politics

May 2—Republican Senators disagree publicly on whether or not the Republican Party should dissociate itself from the Johnson Administration's policy in Vietnam.

May 3—A speech by former Governor George C. Wallace (D.-Ala.) in the Dartmouth College (New Hampshire) auditorium is interrupted by demonstrators. Bodyguards lead Wallace to safety.

May 9—At a $250-a-plate Democratic fund-raising dinner, President Johnson addresses 3,000 persons in Washington, D.C.

May 22—*The New York Times* reports that "political interference" by state Republicans in the Pennsylvania National Guard led to the dismissal last month of Major General Henry K. Fluck, formerly commander of Pennsylvania's 28th Keystone Division, and the senior active National Guard division commander in the U.S.

Press

May 5—*The New York World Journal Tribune,* which started publishing September 12, 1966, after a merger of *The New York Herald Tribune, The World-Telegram and The Sun,* and *The Journal-American,* shuts down.

Supreme Court

May 8—The Supreme Court, reviewing 3 obscenity decisions from state courts in Arkansas, Kentucky and New York, rules 7 to 2 that the publications in question are not obscene by the Court's present obscenity tests.

The Supreme Court rules 6 to 3 that a Kansas City, Missouri, mail order house cannot be required to collect state or local "use" taxes on interstate purchases if the transaction is handled completely "by mail or common carrier."

May 15—In an 8–1 decision, the Supreme Court rules that in juvenile delinquency trials, a child must be granted the procedural safeguards provided for adults in the Bill of Rights.

May 22—In unanimous decisions on 4 appeals related to the Court's one-man, one-vote principle, the Supreme Court rules that elections for a school board in Michigan and the city council in Virginia Beach, Virginia, are valid even though voting districts were unequal, because the school board and city council are engaged in functions more administrative than legislative.

May 29—In a 5–4 decision, the Supreme Court affirms a ruling by the California Supreme Court that Proposition 14, an amendment to the state constitution approved by the voters, is unconstitutional. According to the Court, Proposition 14 permitted homeowners "to discriminate on racial grounds in the sale and rental of" housing and thus violated the 14th Amendment to the U.S. Constitution.

Ruling 5 to 4, the Supreme Court finds unconstitutional the Federal Nationality Act of 1940; the act provides that a U.S. citizen who votes in a foreign election loses his U.S. citizenship. The Court declares that Congress does not have the power to deprive a U.S. citizen of his citizenship without his consent.

In an 8–1 decision, the Court decides that officials may use as evidence in court items such as clothing seized by police in lawful searches of the residences of suspects. This overrules a 1921 decision forbidding police to seize or to use in court items described as "mere evidence" and not directly fruits or weapons of the crime.

The Supreme Court refuses to grant a speedy hearing to Adam Clayton Powell, who charges that he was unconstitutionally barred from taking his seat in the House of Representatives.

VATICAN, THE

May 13—Pope Paul VI worships at the Shrine of Fátima in Portugal.

May 31—French President Charles de Gaulle meets with Pope Paul VI at the Vatican to discuss Vietnam and the Middle East.

VENEZUELA

May 12—The government announces that a 12-man rebel landing group, led by Cuban army officers, has been seized. (See also *Cuba.*)

VIETNAM, REPUBLIC OF (South)

(See also *Intl, War in Vietnam*)

May 11—Premier Nguyen Cao Ky formally announces his candidacy for the presidency in elections scheduled for September 3, 1967.

May 19—Chief of State Lieutenant General Nguyen Van Thieu announces that he will run against Ky in the presidential elections.

May 25—Tran Van Huong, an ex-premier, announces that he will run for president.

YEMEN

May 17—The U.S. State Department reports that 2 U.S. aid officials, detained in Yemen and accused of sabotage, have been permitted to leave.

YUGOSLAVIA

May 17—Marshal Tito is reelected to another 4-year presidential term.

PRINTED BY BUSINESS PRESS, INCORPORATED